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FAMILY AND MEDICAL LEAVE ACT OF 1989

HEARING

BEFORE THE

SUBCOMMITTEE ON
CHILDREN, FAMILY, DRUGS, AND ALCOHOLISM

OF THE

COMMITTEE ON
LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

S. 345

TO GRANT EMPLOYEES FAMILY AND TEMPORARY MEDICAL LEAVE UNDER CERTAIN CIRCUMSTANCES, AND FOR OTHER PURPOSES

FEBRUARY 2, 1989

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FAMILY AND MEDICAL LEAVE ACT OF 1989

THURSDAY, FEBRUARY 2, 1989

U.S. SENATE,
SUBCOMMITTEE ON CHILDREN, FAMILY,
DRUGS AND ALCOHOLISM,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:06 a.m., in room SD-430, Dirksen Senate Office Building, Senator Christopher J. Dodd (chairman of the subcommittee) presiding.

Present: Senators Dodd, Pell, Adams, Hatch, and Coats.

OPENING STATEMENT OF SENATOR DODD

Senator DODD. The Subcommittee on Children, Family, Drugs and Alcoholism will come to order.

Let me just make a couple of announcements for housekeeping purposes. I am going to be asking the staff, when we get to our witnesses, to turn on these distinguished looking lights here in front of me and, we will ask our witnesses in advance to keep their prepared remarks as brief as possible. We will try and not cut you off prematurely, but we can guarantee you as well that all your prepared statements, in their entirety, will be included in the record as part of this hearing this morning. In order to move things along and not keep everyone here too long, I will ask you to make only the key points in your statements, if you can, unless your statements as prepared are brief.

Again, I want to thank my colleagues this morning for being here just prior to this hearing and for their sponsorship or cosponsorship of this legislation, both from the House and the Senate.

Let me welcome all of you to the Senate Subcommittee on Children and the first hearing of the 101st Congress on the Family and Medical Leave Act of 1989. I am pleased to be joined by 19 of my Senate colleagues and over 150 national childrens', family, health, labor and business organizations in reintroducing this legislation today.

If you asked what does the United States and South Africa have in common, your answer would probably be "not much, I hope." But would you know that we are the only two industrialized countries in the world without national family leave policies. If I asked what do the U.S. Catholic Conference, the ACLU, the American Academy of Pediatrics and the Association of Junior Leagues have in common, your answer would probably be "not much" as well. Yet, these groups are united behind an important and timely idea, that parents ought to be able to have jobs and their families as well. They support the Family and Medical Leave Act of 1989.

Like us, they see the American family changing right before their very eyes. Ozzie and Harriet and June and Ward Cleaver have been replaced by Roseanne and My Two Dads. Only one in ten American families has dad at work while mom stays home with the kids. Fifty-six percent of all American women and more than one-half of all mothers with infants under one year of age work outside of the home. We have 29 million two-earner families in the United States, with 25 million children, and almost 8 million single-parent families, with an equal number of children—33 million children. One out of every other child is being reared today in a family where either both parents work or only one parent is providing for that family. By 1995, two-thirds of all pre-school children will have mothers working full-time. The statistics go on and on. We can run, but we can't hide.

What do these people do when a family crisis hits? The sad news is that many working people are on their own, caught in a Hobson's choice between their families and their jobs. Let us set aside the stories we have heard from parents in seven hearings across the country last year—good people and productive workers losing their jobs because they have families as well. Let us just look at the numbers, if you will.

According to a recent survey of Fortune 1500 companies, only half the employers surveyed offer critical infant-mother "bonding" leave beyond the childbirth-related disability period. The U.S. Chamber of Commerce reported a survey last fall which revealed that 82 percent of employers provide no leave to care for sick children, 85 percent provide no leave for elder care, and 75 percent offer no leave for fathers. Only six States and about a quarter of employers offer leave time for adoption, which most adoption agencies require.

A recent survey in my home State of Connecticut, one of the most progressive States in the country and also one of the most economically successful, revealed that fewer than 10 percent of the 750 firms surveyed offer infant care leave over and above normal sick leave policies. As a nation, I and my colleagues believe that we can do better.

The Family and Medical Leave Act is an idea that is very simple and whose cost is very small. Ten weeks of unpaid leave for birth, adoption, or the serious illness of a child or elderly parent; 13 weeks of unpaid leave if an employee is incapacitated by a serious illness and cannot work; job protection during the two kinds of crises which can remove the primary breadwinner from the labor force and cripple a family's economic security.

What is the cost of this bill? Well, it does not cost the Federal Government one red cent. And according to the General Accounting Office study released this morning, the cost to American business will be less than $236 million each year. That is $4.35 per covered worker, less than two cents a day. Eighty-eight percent of all businesses would be exempt from this legislation, and some of those covered already offer similar plans. Two cents a day for job security during a family crisis.

Witnesses representing the Washington business lobby here today will make their educated guess about the effect of the bill on employer flexibility and the potential reduction of existing employee benefits. This, despite repeated assertions by State Departments of Labor, unions, and businesses with leave policies in place, that there simply is no relationship between family leave and the costly on-going benefits which businesses typically provide.

They will tell us what they think family leave will do to their business if this bill is enacted. We will also hear from independent business people here today, people who already offer leave policies similar to what this bill provides, which actually save them money in reduced turnover, absenteeism, and hiring and training costs.

As Yogi Berra used to say, "This is deja vu all over again." Over the last fifty years, in times of national consensus, when the government has stepped in to ensure a minimum floor of protection and human decency for American workers—and that is what this bill is really about, it is human decency—we have heard the same Chicken Little arguments from the business lobby that we will hear today.

Child labor laws, occupational safety and health, minimum wage and civil rights—each time we put a fair labor standard in place, we were told the sky was falling. And yet, I think most Americans agree that these laws have not only made us a more decent and humane society, but they have made us a stronger one economically as well. Five years from now, when this family leave policy is in place throughout the Nation, we too will be wondering what all the fuss was about in 1989.

I would like to begin the 101st Congress with our best foot forward. To our colleagues in the business community, we extend a hand of mutual interest and cooperation. We want to work with you to develop legislation which provides job security for American parents in a way that is fair and affordable to American business as well.

To those in Congress and the administration who oppose this legislation, we extend the same offer. We all want pro-family policies which make it economically feasible for parents to be home with their child, and that is what this legislation is all about. We all want adoption to expand women's pregnancy-related options, and that is what this legislation is all about as well.

We are all concerned about children at risk of drug abuse, children whose future productivity as employees depends on the early intervention which only parental bonding can provide. That is what this legislation is all about.

I look forward to working with the business community and my colleagues in the Senate and to see if together we can achieve these mutual goals which we all espouse.

We are fortunate this morning to have our colleague from Oregon with us, who I know is on a tight schedule. He has been gracious to spend almost an hour with us already this morning. He is a principal cosponsor of this legislation, and I am sure my colleague from Utah will not mind if we ask our friend from Oregon to say just a couple of words.

[The material referred to appears at the end of the printed record.]

STATEMENT OF HON. BOB PACKWOOD, A U.S. SENATOR FROM THE STATE OF OREGON

Senator PACKWOOD. Mr. Chairman, I will try to set a good example for timer. Are you ready?

Senator DODD. Yes.

Senator PACKWOOD. All right. On your mark—do you run that yourself, too?

Senator DODD. Absolutely. I am learning how to be a chairman.

Senator PACKWOOD. Mr. Chairman, first I want to thank you for this opportunity to testify and say how pleased I am to be one of your principal cosponsors of this landmark legislation.

I want to especially acknowledge my home State of Oregon, which has already taken the lead and implemented similar parental leave protection last year. Later this morning, Oregon's Commissioner of Labor, Mary Wendy Roberts, by invitation of your subcommittee, will be testifying to the wonderful success of the Oregon parental leave law. I hope to come back and introduce her to the committee when she comes on.

It is her agency which has been responsible for enforcement of the Oregon law and which wrote the administrative rules implementing that statute.

The need for a Federal law has become urgent. President Bush talks of a kinder, gentler Nation. We now have the opportunity to be that kinder, gentler Nation. This measure is a step in the right direction.

What we are saying with this bill is simple justice: A single mother should not be forced to lose her job to take care of a dangerously ill child. A father should be able to count on returning to work after taking care of his family's emergency at home.

Fairness in the workplace will pay off for employers, too. Understanding the problems that families face will bring dividends in the way workers feel about their work, instead of losing valuable productivity on the job, employers will motivate more initiative for their workers by building an important sense of trust and compassion.

The democratic revolution—demographic, not democratic, Mr. Chairman——

Senator DODD. We will accept democratic.

Senator HATCH. We will accept the word "revolution," too. [Laughter].

Senator PACKWOOD [continuing]. Revolution in the American workforce is having a profound effect on the lives of working men and women and their families. Today, more than half of the 45.6 million children in two-parent families have both parents in the workforce; 52 million women work outside of the home, an increase of 178 percent since 1950. By 1990, 75 percent of all mothers will be working outside the home, more than half of all mothers with infants under one year of age now work outside the home.

We are no stranger to these statistics. We have heard them before. It is time we face up to the changing reality of our economy. Single parents and two-war-earner families are the majority of the workforce. It is now time to take action to ensure that no longer will American workers have to face difficult choices as they seek to balance family and workplace responsibilities.

The dual goals of family and work are important to our Nation's well-being. It is time we support working parents by providing flexible leave options which promote family stability and job security.

The Family and Medical Leave Act before us today is a good way to help ease the tremendous pressures parents face in balancing workplace and family obligations. Under this proposal, all employers with 20 or more employees will be required to allow employees up to 10 works of unpaid leave within any two-year period upon birth, adoption, or serious illness of a child or parent. And, in addition, employees would be allowed up to 13 weeks of leave within a one-year period in the event of the worker's own illness or injury.

Only workers who have been on the job for a year or more and have worked an average of half-time or more during that year will be eligible for unpaid leave. Employees would be assured of reinstatement to the same or equivalent job upon their return and would continue to receive health coverage during their absence.

The General Accounting Office, as you correctly stated, estimates the cost of the bill to be no more than $232 million. This bill is a reasonable approach. It seems to meet the needs of families, while helping businesses plan for workers taking leave.

An estimated 88 percent of all firms with fewer than 20 employees will be exempt from the bill's requirements. The Family and Medical Leave Bill is not anti-business. Indeed, many firms already have leave policies in place and report improved employee loyalty, reduced turnover, less absenteeism, enhanced productivity.

It seems clear to me, Mr. Chairman, that business owners and their employees will benefit mutually from an unpaid leave policy such as envisioned in this bill.

I urge my colleagues to support this long overdue measure to help American families, and I congratulate you personally, Mr. Chairman, for your leadership.

Senator DODD. Thank you, Senator Packwood, for that statement and also your remarks at the press conference about trying to maintain the parental leave and child care policies that existed a hundred years ago. I thought that was an eloquent comparison to make.

I feel fortunate as a member of this committee to have as a very good friend and supporter on a number of issues Senator Orrin Hatch of Utah. While we have some disagreements about this legislation, there is no stronger supporter of trying to improve the quality of life for American families in this body than there is in Orrin Hatch. Hopefully, we can be as successful with this bill in working together and in having an influence on each other as we have been on child care.

I know he has a busy schedule as well, and I am sure my cochairman and ranking minority member will not mind if we turn to Senator Hatch and ask him for some comments.

OPENING STATEMENT OF SENATOR HATCH

Senator **Hatch**. Thank you, Mr. Chairman, and thank you, Senator Coats, I appreciate that.

I would like to welcome all of the witnesses here today, this morning, and I want to thank all of you for taking time to be here to give us the benefit of your views and your experience relative to these issues. It is important, it seems to me, to have all points of view represented for the subcommittee's record for this important issue, and I can assure all witnesses this morning that their testimony matters a great deal, even though some of us may not be able to stay—we have got a Judiciary organization meeting going on right now and I have got to get to that—your comments are going to be reviewed and reviewed carefully by Senators, Representatives, and staff members.

Let me just say that I am in sympathy with the idea that parents should be able to spend time with their children following their birth or adoption, and I respect the studies conducted by Dr. Ed Ziegler and others which indicate that these few months represent a critical period in the development of not only the child, but of the whole family.

My qualms about this legislation rest on the fact that it is a mandatory Federal standard, and any time we in government start setting universally applied policies, we very often end up creating more problems than we solve, and that is the problem I have with this legislation.

I still have questions regarding such things as the financial impact on small businesses, the potential for age and sex discrimination, and the preemption of employees' negotiated benefit packages. We find that there are employees who may want different benefits, rather than be mandatorily given this benefit, and I think you will find there are millions who might feel that way. But if this benefit is mandated, it may be that their options to have other benefits they would prefer will be severely curtailed.

I would like to see us do something that encourages innovation and leave policies that gives companies some flexibility to respond to the changing needs, not only of the business but of the employees themselves. And I think we have to get right to the root issue, which is the lack of affordable child care, that both Senator Dodd and I have been working on, and many others in the Senate.

I am looking forward to working with Senator Dodd on the child care bill which will effectively deal with this very key issue.

Finally, I would just like to say that I have a lot of empathy here for what Senator Dodd is trying to do, and I do admire his leadership of this subcommittee. I am very pleased to see Senator Coats on the subcommittee as well, because he brings an awful lot of institutional memory and ability from the House of Representatives, and I think will prove to be a very, very good ranking minority leader on this subcommittee.

Again, I want to congratulate you, Mr. Chairman. I want to congratulate you for the way you are approaching these things, the fair way that you are trying to approach them. Of course, I do appreciate what you are trying to do and hope that we can somehow or other get it done in a way that is satisfactory to everybody in our society, and I will do my best to see if I can help here.

Thank you for letting me go out of turn.

Senator **Dodd**. Thank you very much, Senator.

Senator Pell?

Senator **Pell**. Thank you very much, Mr. Chairman. I have no questions. I just wish to commend you for your leadership in this field. I would also observe that my own State of Rhode Island has already legislation that goes very far down the path we are going down here. In fact, in some cases it goes further, so I strongly applaud this legislation and I look forward to supporting it.

[The prepared statement of Senator Pell follows:]

STATEMENT OF SENATOR CLAIBORNE PELL

THE "FAMILY AND MEDICAL LEAVE ACT OF 1989"

FEBRUARY 2, 1989

I am pleased to join Senator Dodd, Senator Kennedy, and my other distinguished colleagues in introducing the "Family and Medical Leave Act of 1989." As the senior member of the Senate Subcommittee on Children, Family, Drugs and Alcoholism, I must commend our Chairman, Senator Dodd, for leading the nation down the path to sensible and responsive family legislation, and for holding today's hearing.

The bill we are introducing today has been carefully crafted to address not only the immediate and changing needs of the average family, but also the demands and realities of the American workplace. It provides a sensible way for employers to help their employees meet the very real and pressing needs of having a family. At the same time, it will establish a national policy which will help businesses improve worker productivity and reduce levels of turnover and absenteeism.

The bill is quite simple. It provides only that workers who must take time off for the birth, adoption, or illness of a child, or for personal illness, may take limited unpaid leave without losing their jobs.

The demographics of society today demand that legislation demonstrate our commitment to the future. Fewer than one in ten

American families now have a mother at home with her children, and the majority of women, many of whom are in their prime childbearing years, are now active in the workforce, For the sake of the next generation, and for the sake of the sick children today who have no one at home to care for them, we must as a nation decide that we will not make our workers choose between their children and their jobs.

I am particularly pleased that the bill we are introducing today includes a new provision to guarantee limited unpaid leave to workers to care for a parent with a serious, medically certifiable illness. In my own state of Rhode Island, which has the second largest percentage of elderly citizens of any state in the nation, this addition is welcome news.

Rhode Island was one of the first states in the country to recognize the critical and growing need for family leave laws, and has already enacted similar legislation. But there is no national policy, and nothing to ensure consistency among those states which have enacted such laws. A national policy is needed to ensure not only competitiveness between states, but also that every state is a good place for families to live.

I thank you, Senator Dodd, for all your hard work, and look forward to continuing to work with you, with Chairman Kennedy, and with our other friends in the Senate and the House to ensure that family and medical leave becomes a right of every worker in need.

Senator Dodd. I thank you very much, Senator.

Senator Coats?

OPENING STATEMENT OF SENATOR COATS

Senator Coats. Thank you, Mr. Chairman. This is a timely hearing on a matter of increasing importance to both employees and employers, and to the families of the workers of various businesses across our land.

In the House of Representatives, as ranking member of the Select Committee on Children, Youth and Families, I participated in numerous hearings on work and family which dealt with this issue, and I am pleased to have the opportunity to continue examining this important issue.

Granting family and medical leave is an admirable idea. It is the kind of benefit that many employers have incorporated into the package of benefits they provide their employees. Many businesses today realize that to be competitive in the job market and to improve productivity, they must offer these benefits to workers. It is also the compassionate thing to do, to the extent that it is feasible and cost-beneficial to our employers.

According to a recent Chamber of Commerce survey of 1,000 firms in 1986, 77 percent of U.S. businesses already provide parental leave benefits, and 61 percent cited recruitment and retention as the principal motivation for doing so.

Last week, we heard testimony in full committee concerning impending labor shortages in the next decade and the aging workforce in this country. We know the problems that poor and disadvantaged persons are having in getting off welfare and into suitable employment.

According to the Bureau of Labor Statistics, about 21 million new workers will be needed to keep our economy growing by the year 2000. Secretary of Labor Elizabeth Dole and others have advised us of the urgent need to improve education and training of today's youth so that they and other new entrants into the workforce—mostly women, minorities, and immigrants—will have the necessary skills to hold these jobs and so that our economy will remain vibrant and competitive in tomorrow's world.

It is in this context of a changing workforce and the changing economy that we examine today the need for mandating family and medical leave. Traditionally, the matter of benefits is one of agreement between employer and employee. Businesses have had the flexibility to tailor specific benefit packages according to changing work conditions and competing needs of their workforce.

Moreover, it seems to me that in a situation of growing labor shortages, employers will offer increasingly greater and more varied cafeteria-type plans to attract the best employees. The question thus arises do we need to mandate family and medical leave? Will mandating such benefits possibly be counterproductive, proving too costly and burdensome for most employers, especially small employers? Would it perhaps harm the very workers whom we are trying to help?

Mr. Chairman, I am concerned that any action that we take in Congress be helpful to workers and their families, especially the working poor, and at the same time also be cost-beneficial to business, especially small business, which employs the majority of the new workers and offers the most opportunities to new workers in our workforce.

I look forward to hearing from our witnesses today concerning the proper role of the Federal Government in finding a proper remedy for their problems in this area. I thank you for holding these hearings.

Senator DODD. Thank you very much.

Senator Adams?

OPENING STATEMENT OF SENATOR ADAMS

Senator ADAMS. Thank you, Mr. Chairman. It is a great pleasure to be here and to join with you on this bill, Mr. Chairman, because the bill before us today is in my opinion an important part of the American agenda for our society.

As our workforce ages, and all the demographics show that it is, we should have realized by now that our most important resource is our human resource and our Nation's most valuable asset and competition in the future is going to be will our workforce be productive and will our workforce and our Nation be sensitive to the needs of one another, and particularly to the needs of the family.

The Family and Medical Leave Act is one aspect of this new agenda. It simply entitles employees and firms who employ more than 20 people to a limited amount of unpaid medical leave for birth, adoption or serious illness of a child or for the elder care of a parent.

Now, our major industrialized competitors throughout the world have comparable policies. Their productivity rates have not suffered. We have seen a strong family tie develop in many of our competing nations, and these strong family ties have increased and will continue to increase the productivity of our competitors.

People have to be not only happy people, but they have to be people who have an incentive, not a disincentive, to work, an incentive, not a disincentive, to go to the job every morning. More and more, we are seeing and welcoming women entering the workforce, but as the Chairman so well stated—and I think his little examples of the changing of the television sitcoms is absolutely accurate.

The two-wage-earner family is more and more reality in our Nation and it is essential that we provide some capacity for our families and the newborn to adjust to one another in early days of baby life. Those of us that have raised what we consider now large families—I had four children—know that we need in each case a period of time for the family to in effect get its act together when a newborn arrives. This is essential, when we have working families with both parents working. I see it continually in my younger staff members, the necessity that we give them the time so that they can adjust as both are working, where the child will be, that they are comfortable, that they know that the system will work, that they know that the child is protected—and this is the part of the Chairman's total agenda, and I congratulate him on it and I want to work with him as we go through it, trying to adjust to new family life in America.

Most important, we do want to be this kinder, gentler Nation, and the kind of Nation that we should have is one that is going to need a strong workforce for the future and the taking care of a sick child or an ill baby is one of the things that this society can and will support.

As far as money is concerned, the General Accounting Office has concluded that there will not be adverse impacts from the enactment of this bill. It is a universal bill, is one of the reasons the Federal Government is considering it.

Those employers in the United States who are presently providing these benefits, our hats are off to you. We want to be certain that those that are competing with you are conducting the same fair and, as the Chairman well stated, simply standards of decency for our people.

This is a family bill. It is simple, common sense. It is good economic policy. We should act quickly, Mr. Chairman, to report the bill to the full Senate, so we can get on with the important task of preparing our workforce for the future.

Mr. Chairman, it is a pleasure to join with you in this, and I look forward to the hearings and we will all, I am certain all of the witnesses in this room understand, some of us will be in and out from time to time because of other commitments, but not because we have a lack of commitment to this fundamental principle which you will see happen in this Congress.

Thank you, Mr. Chairman.

Senator DODD. Thank you very much, Senator Adams. I appreciate your comments and your statement and your work, I might add, on these issues over the last several years. Last year, we narrowly lost the opportunity to have this pass the Senate.

I am going to ask our first panel to join us here this morning. As I introduce you, I would ask you to come up. Your names have been placed on cards there, beginning over on this side here: Dr. Esther Wender, American Academy of Pediatrics and Montefiore Medical Center, Bronx, New York. She is Chairwoman of the Academy's Committee on Early Childhood, Adoption and Dependent Care and a professor of pediatrics at the Montefiore Medical Center and Albert Einstein College of Medicine.

We thank you for being here this morning.

Mr. Joe Kroll, is the Executive Director of the North American Council on Adoptable Children, which is an organization of adoptive parent groups, adoptive agencies and individuals who are committed to improving opportunities for permanent homes for special needs children waiting for families. He is also a parent of two children, one by adoption. Mr. Kroll, we thank you for being with us as well.

Ms. Barbara Hoffman is Vice President of the National Coalition for Cancer Survivorship. Ms. Hoffman is a disability rights attorney and Vice President of the National Coalition for Cancer Survivorship, a network of individuals, organizations, medical centers, and health professionals who work to improve quality of life after a cancer diagnosis.

Ms. Myra Guski, from Seminole, Florida, is a medical technologist, currently employed by the University General Hospital in Seminole, Florida. We thank you, Ms. Guski.

Mrs. Carol Ball is with the Ball Publishing Company, from Arcanum, Ohio. We thank you for coming. Mrs. Ball is here at the request of Senator Coats and is representing the Chamber of Commerce. She is the owner and chief executive officer of the Ball Publishing Company, which publishes a weekly newspaper and has 42 employees. We thank you for being with us.

We thank all of you. You have all heard me, I presume, talk about these crazy lights. Very simply, green means go, yellow is a warning light that is near the end, and at red, if you haven't wrapped up, try to come to a conclusion, if you will.

Again, all of your statements will be made part of this record. I will ask you to present your comments in the order that I have introduced you, and at the conclusion of your comments we will have some questions for you.

Dr. Wender?

STATEMENTS OF ESTHER WENDER, M.D., AMERICAN ACADEMY OF PEDIATRICS AND MONTEFIORE MEDICAL CENTER, BRONX, NY; JOE KROLL, EXECUTIVE DIRECTOR, NORTH AMERICAN COUNCIL ON ADOPTABLE CHILDREN, ST. PAUL, MN; BARBARA HOFFMAN, VICE PRESIDENT, NATIONAL COALITION FOR CANCER SURVIVORSHIP, PRINCETON, NJ; MYRA V. GUSKI, SEMINOLE, FL; AND CAROL L. BALL, BALL PUBLISHING COMPANY, ARCANUM, OH, ON BEHALF OF THE U.S. CHAMBER OF COMMERCE

Dr. WENDER. Good morning, Mr. Chairman.

My name is Esther Wender. I am a pediatrician and I am here today representing the American Academy of Pediatrics, an organization of physicians specializing in the care of infants, children and young adolescents. I am also chairman of the Academy's Committee on Early Childhood, Adoption and Dependent Care, which deals with issues of the kind that we are here to discuss today.

As was indicated by the Chairman, I am also Professor of Pediatrics at Montefiore Medical Center and Albert Einstein College of Medicine, in the Bronx, in New York.

Because of the Academy's deep commitment to improving the overall health status of our patients and enhancing the quality of their family life, we strongly endorse the Family and Medical Leave Act and urge its swift passage.

We urge passage of this bill because we believe there is increasingly compelling evidence that there are critical periods in the life of families where the continual presence of a parent or close family member seems to really be vital to the optimal health and development of that child in that family. And because of the changing nature of the workforce in today's society, sometimes this need comes in conflict with this vital need of the presence of the family in critical times.

Two such critical periods that I am going to be talking a little bit about this morning are, first of all, the arrival of a new child in the family, and, second of all, serious illness, especially hospitalization in a child or in a close family member.

I think the need for this legislation has been stated really very eloquently today by Senator Packwood and others and has to do with the changing structure of our society and families and the changing structure of the workplace. There are more women working. There are more two-parent families in which both parents are working.

There are fewer non-working members of extended families who can function in the kind of capacity I was discussing. Also, medical treatment today, which are saving more lives, are also increasingly evasive and often horrendous difficult experiences for families to go through.

I might say parenthetically at this point that one of the Senators referred to the fact that many firms and organizations already have leave policies. But from my experience in working in the Bronx, where the socioeconomic level of much of the population is quite low, we find that the least number of available leave policies are available for the people with the lowest incomes, and I think that is a point that needs to be made.

First of all, the arrival of the new child: During the initial few weeks of a child's life, their behavior is unstable, they change a great deal. Parents are also undergoing what has now been a well-studied, very rapid period of change as they are adjusting to both the new skills that they must acquire and their own changed feelings as a result of being a new parent.

It is during this period of instability—and part of that, by the way, for mothers is the establishment of the good supply of breast milk—we think that these periods, and we have evidence that these periods require extensive contact between the parent and the child in order for them to be optimally successfully gone through. And this is just one example of the kind of need that we think this bill hopefully will fulfill.

It is not just the birth of a child, but a new child coming to the family because of a foster placement or adoption has a similar kind of need for continuous interaction with each other, so as to facilitate their adaptation to each other, to understand each other's behavior, to know and try different ways of managing that behavior, and to ultimately adapt to each other.

The second important issue I think is the one of serious illness and hospitalization of children. We have very clear evidence that the presence of a close family member or a parent for a child who is hospitalized with a serious illness makes an enormous difference in that child's ability to recover and ultimately develop well.

That evidence is so clear that every quality child care facility for children, every children's hospital that I know of supplies facilities for families to actually live in the room, in the hospital room with the child, and unlimited visiting hours are allowed in order to facilitate this kind of constant interaction.

In fact, right here in Washington, D.C., D.C. Children's Hospital is one of the early pioneering hospitals in declaring these policies as being absolutely vital, and at that hospital they allow parents to even go with the child to the operating room until the child is under anesthesia in order to remove some of the terrible anxiety that is attendant upon serious illness.

So, for both of these reasons, we think that there is a definite need for families to not have to feel the conflict between their own participation in these important very critical periods and the requirements of their job.

We are aware that one issue is the definition of what constitutes a serious illness. We believe that such a definition can be achieved on the basis of at least three principles. One is the degree of functional limitation that the child is experiencing, that is how much can they or can't they do; the second is the kind of treatments and procedures that are required; and a third is the length of hospitalization, just to name a few of the kind of measures that could be used to make such a definition for what constitutes a serious illness.

We are also aware that this attachment that I have been talking about is not just a one-time occurrence. We are aware that it is a process that is even life-long in duration. However, we do believe that there is evidence that there is a critical period for this development of attachment, at a time when the adult and the child are newly experiencing each other, that we think is important to attend to differently than the other aspects of attachment.

We believe that it is time to address the changing face of the American workforce and family life with reasonable solutions that recognize the value of families, while balancing the needs of employers.

With the input and cooperation of employers and employees and a strong congressional commitment, the Family and Medical Leave Policy should be passed.

Thank you.

[The prepared statement of Dr. Wender follows:]

American Academy of Pediatrics

TESTIMONY

BEFORE THE

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

PRESENTED BY

ESTHER WENDER, M.D., F.A.A.P.

FEBRUARY 2, 1989

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Good morning, Mr. Chairman. My name is Esther Wender, M.D. I am a pediatrician and am here today representing the American Academy of Pediatrics, an organization of physicians specializing in the care of infants, children and young adults. I am chairwoman of the Academy's Committee on Early Childhood, Adoption and Dependent Care and a professor of pediatrics at Montefiore Medical Center and Albert Einstein College of Medicine.

Because of the Academy's deep commitment to improving the overall health status of our patients and enhancing the quality of their family life, we strongly endorse the Family and Medical Leave Act and urge its swift passage.

The Family and Medical Leave Act would entitle an employee to 10 unpaid, job protected workweeks of family leave as result of the birth or placement for adoption or foster care of a child, or to care for a child or parent who has a serious health condition. The bill exempts all employers with fewer than 20 employees.

In the 1980's, there have been many calls to strengthen the American family and to support American business. The American economy requires a strong and committed workforce. This will be created, in part, by insuring that policies are in place to support working families in times of personal crisis such as the birth, adoption or major illness of a family member. Significant changes in the structure of our society have occurred in the past two decades which greatly complicate the way families cope with the arrival of a new child or a serious illness in family members. In the majority of households, both parents work; most do not live in extended families where help is available in times of crisis.

Too few work places provide what we consider adequate flexibility to allow workers to carry out their parenting responsibilities. We compliment Senator Dodd on his determined efforts to design practical solutions to work/family issues that respect both employers and employees.

This legislation will eliminate for parents the painful and often hopeless choice between keeping their job and caring for their child. Senator Dodd's proposal would allow parents the opportunity to take unpaid leave without the threat of losing their job and the health insurance that is usually covering the cost of treatment, or jeopardizing their seniority. Having this option available safeguards the family's economic security and enables parents to fulfill the urgent responsibility to care for their child.

Parent/child bonding is a lifelong process. It is not possible or useful to place time limitations on its occurrence. However, there are occasions when a parent's care is especially critical, particularly the birth, adoption or serious illness of a child. A parent's care, love and attention for their child is unique and irreplaceable. As important as it is for the parent's peace of mind, it is even more important for the anxious, sick child to have a parent close by. Pediatricians support all efforts that foster the ability of parents to provide this care for their children.

As financial need compels increasing numbers of women to enter the work force, more and more infants are being born into homes where both parents work. A new addition to the family precipitates changes to which the family must adapt. During this period of adjustment, parents develop skills and the child makes adaptations which enhance optimal physical and emotional growth. This early period together allows attachment to occur. Separation can make this attachment and adjustment more difficult to achieve. Breast feeding, for example, must be frequent for milk to continue to be produced. When mothers are away all day at work, this process becomes extremely difficult.

Another time when a child's physical and emotional well being heavily depends on parental participation is during a serious illness. For over thirty years, it has been well known that children who are hospitalized get well faster and have fewer complications when their parents are able to be with them. Children have increased dependency needs when they are sick, and require the unique warmth and security that only their parents can offer. For very young children, it is extremely frightening to be left alone in a hospital. Parents rooming in with their sick child should be standard procedure. Allowing parents the option to care for and comfort their seriously ill children is sound pediatric practice.

In this era of shorter hospital stays, parental involvement with the homebound child may be important not only for emotional support but also for medical support. The parent may be the only person available to stay home with the child until he or she is ready to return to school or daycare. The parent may be the only person who can give the child medication as scheduled and observe the child for satisfactory progress or the development of problems.

Clearly, each and every bout of illness that a child may experience does not create the need for parental leave. To ensure equity for employees and employers, parameters within which a serious health condition can be defined should be drawn. This will be useful for employers as they structure benefit packages and plan for operations management. It will also make it easier for employees to realistically assess their options should a crisis arise.

While it may be difficult to define "serious health conditions," it can be done. This term can be defined by 1) the functional limitation of the child, 2) the specific medications and procedures required, 3) the length of the inpatient hospital stay, or 4) a combination of all of these methods. A combination of the three would seem to be a reasonable approach to achieving a fair and workable definition.

It is essential that there be flexibility to allow for individual variation that characterizes the unpredictable nature of childhood illness. Examples of factors that affect the prognosis of an injury, illness or health condition include the age, weight, and medical history and status of the child. The family support systems can also impact on the parents' ability to cope with the situation. Even geographic issues such as distance from the hospital can have an influence. The parent whose child is referred to a distant medical center may be in a different situation than the parent who lives close to the hospital.

To the same extent as birth parents, adoptive children and their parents require time to form physical as well as psychological attachments. Once parents and children establish a solid attachment to each other, a smoother transition back to work is possible, and increased job satisfaction is likely.

The introduction of a national leave policy may entail restructuring benefit packages and changing operational procedures. However the American Academy of Pediatrics believes that the health and cohesiveness of American families warrent these efforts. It is time to address the changing face of American work and family life with reasonable solutions that recognize the value of families while balancing the needs of employers. With the input and cooperation of employers and employees, and a strong congressional commitment, the Family and Medical Leave policy should be passed.

Senator DODD. Thank you very much.

These lights were not working. It is about 10 minutes that you have, so try to keep it at that.

Mr. Kroll?

Mr. KROLL. Thank you very much.

Mr. Chairman and members of the committee, I thank you for this opportunity to appear before you today and discuss the needs of adopted children and their families.

The North American Council on Adoptable Children, as well as other organizations in the adoption community, are accurately involved in innovative methods of recruiting families to adopt these needy or damaged children. In the fourteen years of our existence, we have learned that there are many special families in this country who are willing and eager to take on the responsibility of loving and raising a special needs child. As shapers of public policy, however, they need your help. There are many things that can be done to assist and enable families as they make a decision to adopt, and as the family adjusts to the addition of a new member.

In 1980, the passage of the Adoption Assistance and Child Welfare Act made a great difference, and it was a federally mandated program in the movement of children out of foster care into adoptive homes. That is a piece of Federal legislation, of Federal leadership that the Senate and the House and the President should be proud of. It is the kind of legislation that this follows. It was child-oriented, and I think that is probably the most important thing about this legislation. This is not for the parents, it is really for the children.

This legislation proposed is a means of providing the necessary flexibility to allow additional families to consider special needs adoption. As we all know, the American family is under enormous stress and the majority of families now have two wage-earners. Even the addition of a healthy infant, either by birth or adoption, causes major changes in a family, as any parent can tell you.

Imagine, then, the disruption caused by the addition of a child with major physical disabilities, or with a history of severe neglect or physical or sexual abuse. Under the best of circumstances, these children can send shockwaves through a family. Prospective adoptive parents will be more able to consider special needs adoptions if they know they are not jeopardizing their jobs in the process.

Currently in the country, estimates suggest that there are 35,000 children waiting to be adopted. These are not infants, they are children with some form of handicap condition.

In the State of Minnesota, our parental leave bill treats biological and adoptive children identically in terms of parental leave. It is for only six weeks, however. There are differences, though, across the country.

New York allows parental leave of adopted children only if they are preschool age. Does this then mean that a parent does not need to be home after adopting a seven-year-old, with a history of fire-setting? How about sibling groups?

In a recent Adoptalk, our quarterly newsletter, we featured a sibling group of five black children, ranging from five to eight-year-olds, including five-year-old triplets. These children are currently wards of the State and are being cared for by the State and paid for by the State. The government will support them for the rest of their vulnerable future unless they are adopted.

It seems that assuring these families the option of an unpaid leave during initial adjustment period is not too much to ask.

I would like to summarize research recently completed by Dr. Richard Barth, of the University of California, in a book, "Adoption and Disruption." He describes the trauma that older children face when they move from one family to another:

> During the adoptive placement, the older adoptive child experiences many major transitions, including major family trouble, entrance into a new family (perhaps with new siblings and extended family), and entrance into a new school and neighborhood. Each of these transitions carries tasks for the child. These transitions have a compounding stressful effect on the ability of the child to cope with any one transition. During the early stages of the placement, the tasks for the child are numerous: separation from prior caretakers, integration into the new family, and entry into a new social environment.

I think it would be not too much to ask to provide those families adopting those children with options for parental leave.

Another mandated piece of Federal legislation which I benefited from and probably which I would not be here today if I had not, is the widow's benefits for social security. Growing up in a family in the fifties, where my mother did not work, when my father died she had to raise four children between the ages of 3 and 13 on her own. Had she not had that federally mandated and financed program to support our family, she would have had to return to work, the struggles would have been much greater that we would have faced. I think that is a program that has been around for a while. It certainly costs more than this one, but is another example of a general mandate that supports families and children.

In a Federal legislative environment that supports families, this is probably the least costly piece of legislation that could be considered. I should repeat that, because all of us remember the budget deficit, and this is the least costly piece of legislation that could be considered.

In fact, the GAO analysis suggests that there is no measurable cost to the employer and that the short-term re-allocation of assignments may, in fact, save money. I know that others have and will speak to the dollars and cents, but I will not at this time. I guess there is a figure of $236 million that is estimated as the cost in terms of on-going health benefits.

Remember, too, that this legislation requires the employee to provide reasonable notice of family leave. Thus, in exchange for job security (but not paid leave), adoptive parents volunteer to love and care for a child who has been abandoned or neglected, and for whom the State would otherwise be responsible.

In closing, I would just like to remind everyone that this is a positive piece of children's legislation and it is a step in the leadership that will cost the Federal Government a lot of money.

Thank you.

[The prepared statement of Mr. Kroll follows:]

TESTIMONY OF

NORTH AMERICAN COUNCIL ON ADOPTABLE CHILDREN (NACAC)

BEFORE HEARING OF

SUBCOMMITTEE ON
CHILDREN, FAMILIES, DRUGS, AND ALCOHOLISM

U.S. SENATE

HEARING ON

THE FAMILY AND MEDICAL LEAVE ACT OF 1989

February 2, 1989

Presented by
Joe Kroll
Executive Director
North American Council on Adoptable Children

Mr. Chairman and Members of the Committee, I thank you for this opportunity to appear before you today to discuss the needs of adopted children and their families. I am Joe Kroll, executive director of the North American Council on Adoptable Children (NACAC) and parent of two children, one by adoption. NACAC is an organization of adoptive parent groups, adoption agencies, and individuals who are committed to improving opportunities for permanent homes for "special needs children" waiting for families. For over fourteen years we have been involved at the local, state, and national level as advocates for children who wait.

At any given time there are approximately 280,000 children in foster care in the United States. Over 35,000 of them are legally free for adoption and waiting for permanent families of their own. More than half of these waiting children have special needs that require additional services and support in order to overcome past traumas and abuse, physical, mental or emotional handicapping conditions, or other characteristics historically marking them as "hard to place." Approximately half the children waiting for families are over the age of twelve. Some of them need to be placed with their siblings. Almost half of waiting children are of minority heritage, and children of color are in foster care significantly longer than white children. Waiting children cannot speak for themselves. They have been cut off from the warmth, caring, continuity, and security of family life, and they are in great need.

NACAC, as well as other organizations in the adoption community, are actively involved in innovative methods of recruiting families to adopt these needy or "damaged" children. In the fourteen years of our existence, we have learned that there are many special families in this country who are willing and eager to take on the responsibility of loving and raising a special needs child. As shapers of public policy, however, they need your help. There are many things that can be done to assist and enable families as they make a decision to adopt, and as the family adjusts to the addition of a new member.

For example, the federal government has participated in state adoption subsidy programs since 1980, though implementation is not as widespread and consistent as we would like. Still, subsidies can provide families the wherewithal to meet the often severe and costly physical or emotional needs of their adopted children. Thus, many families who would otherwise have been unable to consider adoption are now providing loving homes for some very special children.

The legislation proposed is a means of providing the necessary flexibility to allow additional families to consider special needs adoption. As we all know, the American family is under enormous stress, and the majority of families now have two wage-earners. Even the addition of a healthy infant, either by birth or adoption, causes major changes in a family, as any parent can tell you. Imagine, then, the disruption caused by the addition of a child with major physical disabilities, or with a history of severe neglect or physical or sexual abuse. Under the best of circumstances, these children can send shockwaves through a family. Prospective adoptive parents will be more able to consider special needs adoptions if they know they are not jeopardizing their jobs in the process.

My state, Minnesota, treats biological and adopted children identically in terms of parental leave. New York, however, allows parental leave of adopted children only if they are of preschool age. Does this mean, then, that a parent does not need to be home after adopting a seven-year old with a history of fire setting? How about sibling groups? In a recent Adoptalk (NACAC's quarterly newsletter), for example, we featured a sibling group of five--including an eight-year old, a seven-year old and five-year old triplets. Remember that these kids are currently wards of the state. The government will support them for the rest of their vulnerable future unless they are adopted. It seems that assuring these families the option of an unpaid leave during an initial adjustment period is not too much to ask.

Adoptive placement is, in fact, especially traumatic for older children. As summarized by one researcher:

> During the adoptive placement, the older adoptive child experiences many major transitions, including major family trouble, entrance into a new adoptive family (perhaps with new siblings and extended family), and entrance into a new school and neighborhood. Each of these transitions carries tasks for the child. These transitions have a compounding stressful effect on the ability of the child to cope with any one transition. During the early stages of the placement, the tasks for the child are numerous: separation from prior caretakers, integration into the new family (composed of numerous subtasks such as his role in relation to the parent and to siblings, and other new roles and rules in this family), and entry into a new social environment. (From Adoption and Disruption: Rates, Risks, and Responses by Richard P. Barth and Marianne Berry, page 51)

Thus, this is a critical time in the life of the new family. Adoptive parents need to have the option of being freed of job responsibilities during this important period of adjustment.

In fact, some agencies require that one parent be in the home for a period of time following placement, as a matter of policy. When I adopted in 1975, the agency required that the mother be at home for the first six months. Needless to say, we worked around this requirement and were very thankful the day the adoption was finalized--the agency could no longer take our daughter back. At that time there was no parental leave available to us, even though the importance of initial bonding with a child was beginning to be understood. Only vacation and understanding supervisors allowed us to add a child to our family.

In fact, adoptive families will always be disadvantaged in regard to paid leave. The birth of a child qualifies biological mothers in many states for disability insurance benefits. Also, biological mothers may receive paid maternity leave by treating that condition as an "illness" and taking paid sick time. Adoptive families will never have these options.

In a federal legislative environment that supports families, this is probably the least costly piece of legislation that could be considered. In fact, the GAO analysis suggests that there is no measurable cost to the employer and that short term reallocation of assignments may, in fact, save money. Remember, too, that this legislation requires the employee to provide reasonable notice of family leave. Thus, in exchange for job security (but no paid leave), adoptive parents volunteer to love and care for a child who has been abandoned or neglected, and for whom the state would otherwise be responsible.

Senator **Dodd**. Thank you. You may have heard me say, Mr. Kroll, that the cost is $236 million, and that is for 20 employees or more. If you take the House bill, with 50 or more, the cost is about $188 million. For our bill that amounts to $4.35 per worker per year or 2 cents a day, and the House bill is less than that, with the number of employees being higher, so I could not agree with you more.

If you consider, by the way, the average benefit package per employee in this country, it is $8,116 per year, then 2 cents a day is hardly something you would consider as threatening economically.

Ms. Hoffman.

Ms. **Hoffman**. Thank you, Mr. Chairman and members of the subcommittee.

My name is Barbara Hoffman. I am a disability rights attorney and Vice President of the National Coalition for Cancer Survivorship, a network of individuals, organizations, medical centers and health professionals working to improve the quality of life after a cancer diagnosis. A major concern of NCCS is to expand employment opportunities for individuals with a cancer history, a concern addressed squarely by the Family and Medical Leave Act.

My testimony today is on behalf of the more than five million living Americans who have been diagnosed with cancer, three million of whom have already overcome their illness. My definition of a cancer survivor attaches at the time of diagnosis.

Approximately 25 percent of all cancer survivors, over one million Americans, experience some form of employment discrimination solely because of their cancer history. This disparate treatment includes dismissal, demotion, and loss of benefits. Such discrimination against qualified employees costs society millions of dollars in lost wages, lost productivity and needless disability payments.

Most cancer survivors are capable of working after a diagnosis. In fact, approximately 80 percent of all adults diagnosed with cancer return to work after their diagnosis. However, many survivors, especially blue collar workers, find themselves out of a job when they attempt to return to work. One breast cancer survivor told me that she had been fired from her job as a paralegal shortly after having a mastectomy. She was unable to convince her employer that she lost her breast, not her brain.

A Stanford University study of 400 cancer patients found that 6 percent were terminated after their treatment. Another California study of 107 blue collar workers found that more than 10 percent were fired because of cancer-related discrimination.

One reason for this discrimination is the erroneous belief that cancer is a death sentence. The fact is that 50 percent of all individuals diagnosed with cancer in 1989 will overcome their illness. Survival rates for individuals under the age of 55—those most likely to be employed—are even higher, with rates of 80 to 90 percent for many types of cancer.

Another reason survivors lose their jobs is because of the myth that cancer is contagious. One hotel kitchen employee was transferred from his job for fear that he might "contaminate" the food.

A third reason survivors are denied job opportunities is the myth that cancer necessarily destroys a worker's productivity. For example, a senior executive in a large corporation who had demonstrated to his employer that he could perform his job while undergoing treatment for Hodgkin's disease, was nonetheless forced to resign because his superior feared he would no longer be a productive executive. Yet, studies have shown that cancer survivors have relatively the same productivity rates as other workers.

Both the family and medical leave provisions of this bill will greatly benefit the three out of four families that experience a cancer diagnosis.

This year, more than one million adults will be diagnosed with cancer, the majority of whom are employed and will overcome their illness. Thirteen weeks of medical leave will provide a critical safety net of job security. The average number of weeks missed from work for cancer treatment is less than 13: for example, 9 weeks for colorectal cancer, 2 to 9 weeks for breast cancer, 6 to 14 weeks for uterine cancer, and 1 day to 3 weeks for skin cancer. Additionally, this bill addresses the most financially devastating consequences of serious illness, the loss of employee group health insurance.

In 1989, close to 7,000 children will be diagnosed with cancer, most of whom will overcome their illness. The family leave provisions of this bill allow parents the time needed to take care of children undergoing surgery, chemotherapy and radiation treatments, without sacrificing their careers, economic security and family insurance benefits.

The Family and Medical Leave Act appropriately fills in gaps left by existing legislation. Employee security protection offered by State laws varies widely, and is often non-existent. The Federal Rehabilitation Act and similar State laws protect the handicapped. The Family and Medical Leave Act extends protection to the millions of Americans who are not legally handicapped, yet face termination because of a medical condition. This bill offers a reasonable balance between the legitimate interests of employers and the socioeconomic needs of workers and their families.

Mr. Chairman, I commend you for holding this hearing and I appreciate the opportunity to testify in support of this important legislation.

Senator DODD. Thank you, Ms. Hoffman, very much for an excellent statement.

We will now turn to Ms. Guski.

Ms. GUSKI. Good morning. I am Myra Guski, from Seminole, Florida. I am a medical technologist, currently employed by University General Hospital, in Seminole.

I am an adult child who cared for two elderly parents in the last few months of life. My experience is not unique, of course, as I speak here today, there are thousands like me—mostly mid-life and older women—who provide virtually round-the-clock bedside nursing care to a seriously ill parent.

When my father's death was close, I asked my supervisor for a leave of absence. He flatly refused my request. I had no choice but to resign.

I am here today to share my experiences as a caregiver who was also a full-time employee.

My 76-year-old father suffered his final heart attack (his third) while on a trip to Ohio in June of 1983. I took leave, went to Ohio and stayed with my parents until dad was strong enough for an air ambulance home. In the three weeks before he was able to travel, I used up all my annual leave. At that time, I had been working for ten years as assistant supervisor of hematology for St. Anthony's Hospital and was entitled to 25 days' annual leave.

During the next four months, I worked double shifts, but still tried to spend time with my father who was in the hospital most of that time. My mother stayed with my husband and me because she, too, was in frail health. We were called many times at night to rush to the hospital, thinking that it would be the last time. The emotional strain of trying to give one hundred percent both to my dad and to my vocation was very difficult.

Though I had the help and support of my husband and my mother, I became exhausted trying to meet dad's needs while working full-time. Finally, in October, because his doctors said dad was dying, I asked for leave. My supervisor said no. He didn't believe me. He said, "Your father was dying before."

I cannot tell you how hurt and angry I felt. The anger is finally gone, but the hurt will never leave. I am a conscientious and loyal worker. My employer let me down when I most needed that dedication to be repaid. I was forced to choose between my dad and my job. There was no alternative. I resigned. Three weeks later, my dad died.

I still do not understand why my employer was not more cooperative. It would have served his own interests. That is because no matter how experienced a new medical technologist might be, it takes three months to a year to train and orient a new employee. Each lab has its own procedures, rules, regulations, and instrumentation. My employer would have been far better off to have given me the short leave I needed.

After dad's death, I did not return to St. Anthony's. I worked in another medical laboratory until it closed last spring.

When I sought other employment this past summer, I told potential employers that my 81-year-old mother was seriously ill. She had been in declining health for four years. I promised to give a full day's work, but at times I needed flexibility to check on my mother during lunch and to take her to doctor's appointments. In spite of a growing shortage of medical technologists, this was unacceptable to most employers. I looked for less demanding jobs right in the neighborhood. Not even the local florist was willing to let me go home for lunch if I needed to check on my mother.

Finally, in October, I was hired by University General Hospital. The laboratory director knew of my circumstances, but decided my qualifications outweighed the possibility of a short-term leave. Four weeks later, almost five years to the day dad died, mom died. With the complete understanding and cooperation of the new supervisor, I took five days off and returned to work.

Caring for a loved parent is difficult under the best of circumstances. There is no way to describe the pain and agony of seeing a parent deteriorate before your eyes. Both of my parents had been strong and proud of their independence. To see their health deteriorate was devastating.

But my parents' needs should not have put my job in jeopardy. Had the Family and Medical Leave Act been law in 1983, I would not have been asked to choose between my father and my job. I hope you will vote for this bill so that no worker is again placed in this position.

Senator **Adams** [presiding]. Thank you, Ms. Gusti, for an excellent statement, a very sad statement but an excellent one.

Mrs. Ball?

Mrs. **Ball**. Thank you, Senator Adams and Senator Coats. I appreciate being here today. I am not only an employer, I am also an employee. I am also a mother and a grandmother. I have four children and my husband has three children. We are one of these double families that have come together.

But as an employer and speaking on behalf of my employees and the people that do work in my firm, I would like to say that among the many other small business owners that I deal with across the United States, we are not against pro-family issues and we are not against people taking time off when time off is needed. But the small business owners that I speak with in regard with the U.S. Chamber, the Ohio Chamber, I serve on that as the Director, I serve on the Ohio Small Business Council, through NFIB and the other organizations that I work with, we are definitely for family, we are definitely for leave, but we are definitely against a mandated benefit in this arena.

It seems like the hue and cry that I hear from the small business owners is really the complete rejection of Congress mandating this type of an issue, that is an issue that should be left between the employer and the employee.

In my own firm, we have dealt with pregnancies, we have dealt with suicide of spouse, we have dealt with death of spouse, we have dealt with anything from female surgery down the pike. We have no formulated planned policy in regard to leave of our workers. We have even had adoption that we have worked with. But we feel that we have the right to sit down with that employee and discuss that need and come up with the solution that is tailored to that employee.

My employees, when I took a survey and I said you don't have to sign the name when you fill this out, but I would like your input, I would appreciate your input, what are the things that are important to you as an employee working. Number one, of course, was wages. Parental leave didn't even make the list of things that they were interested in. They were interested in things like tuition, young people that work for us that want to further their education, help us pay our tuition costs, help us get these types of things that we need.

How can I mandate a parental leave, when one of my employees is assumed to be a 70-year-old male and I have everything from married women down to single women and lump them all under parental leave? I am sure that the older people that work for me are more interested in catastrophic health insurance than they are in parental leave.

I just feel that Congress should not meddle in the affairs that should be left to the employer and the employee, and I fear that passage of this also may cause me very large problems. I serve as the chairman of a four-county area JTPA program, a private industry council. We are trying to work with single heads of households that are now on welfare and trying to get them into the workforce so that they are off of the welfare rolls.

I think this bill would definitely be discriminatory against the female. If given the opportunity of hiring somebody that I needed in my own firm and I had two equally qualified candidates and one would fall under a parental leave and one would not fall under a parental leave, can you guess who I would hire, even though they were both equally qualified?

I think it would be damaging to females more than it would be helpful to females. I think Congress should encourage the businesses to have a voluntary leave setup. I do not think it should be mandated, and I think that it would be detrimental over the whole in this area.

I think, if you take my own firm, for example——

Senator ADAMS. I am not going to cut you off, Mrs. Ball, but if you could wrap up, just simply because we have a number of people who want to testify, but please continue on, I want you to be able to finish your statement.

Mrs. BALL. I will wrap it up with one small paragraph.

Congress should not attempt to manage the Nation's businesses from inside the beltway in D.C. I think mandates have not worked in Europe and they will not work in America. I strongly encourage this committee to defend the flexibility, voluntary benefit system and oppose benefit mandates. American jobs really do depend upon it.

Thank you, sir.

[The prepared statement of Mrs. Ball follows:]

STATEMENT
on
PARENTAL LEAVE
before the
SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM
of the
SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES
for the
U.S. CHAMBER OF COMMERCE
by
Carol L. Ball
February 2, 1989

I am Carol L. Ball, co-owner and chief executive officer of Ball Publishing Company. I am a member of the U.S. Chamber of Commerce, as well as a member of the Ohio State Chamber of Commerce, where I serve on the Board of Directors. Additionally, I serve on the Executive Committee of the Ohio Small Business Council, and I am vice chairman of Ohio Business Week. I also served as a delegate to the 1986 White House Conference on Small Business.

Ball Publishing Company employs 18 people full time, 24 people part time, and has contracts with approximately 50 distributors. My company publishes a weekly newspaper for Darke County, Ohio. I might add, too, that I have four grown children, ages 28, 27, 26 and 22, and three grandchildren, one age 8 and two age 2. Accompanying me today is Christine Russell, director of the Small Business Center at the U.S. Chamber.

The Chamber opposes mandated leave benefits because they are unworkable for most small employers; are irrelevant to many employees when compared with other "family" needs; inflict unintended consequences on the employer, the employee, the economy and our competitiveness; and will set a precedent of Congressional interference. Mandated parental leave would allow the government, rather than management, to set personnel policies for private companies.

The business community today faces new challenges of achieving a balance between work and family life; between increasing productivity and meeting the human-resource needs of the work force; and between enhancing our international competitiveness and placing new social responsibilities and financial burdens on employers. Flexibility is the key for businesses that are pressured into balancing so many priorities.

On the surface, a mandate for unpaid leave, with job protection, for those who must care for a disabled family member or an ill child or parent, appears to be a simple way to guarantee that all employees receive equal benefits for family responsibilities. However, a new national policy, albeit well-intended, presents several serious problems.

First and most importantly, a government mandate for parental leave will not decree good parenting. Federal legislation skirts the underlying issue and does not replace basic parental responsibility as the essential ingredient for raising children. Proponents of mandated parental leave see it as a means to improve family life, which is a laudable goal, but clearly out of the realm of a congressional mandate.

Second, any mandated benefit is likely to replace other, sometimes more preferable, employee benefits. A mandated benefit, regardless of how worthy it may be, does not increase the employee benefits "pie;" rather, it redivides it in a manner dictated by powerful special-interest groups. If one employee benefit is required, then another benefit, perhaps one more greatly desired by the employees of a particular company, must be eliminated or reduced to offset the costs associated with the new mandated benefit. Employee benefit packages differ among employers according to their affordability and the needs of individual employers and their employees.

Parental leave deprives employers and employees of the right to be flexible in negotiating alternative benefits, such as longer vacations or better medical insurance. All employees -- male, female, young and old -- will be subject to a uniform parental leave law, whether they are new parents or not, whether they like it or not, or whether they can afford to take advantage of it or not. Federal legislation ignores the irrelevance of benefits that are meaningful only to a portion of the work force. Such legislation results in a loss of freedom of choice -- the hallmark of our economic system.

The Chamber believes that flexibility works best in addressing diverse and evolving family needs. Congress cannot predict whether employers would be able to afford, or whether employees would prefer, flextime or child-care, dental, or liberalized leave benefits. Employee benefits designed in Washington are certain to alienate employers from the particular needs of their own workers. Flexibility, not mandates, allows employers to respond to employee needs and function in a competitive economy.

Impact on Small Business

Small and entrepreneurial businesses are this nation's greatest weapon in its battle to retain a competitive edge in world markets. America's 18 million small firms are the economic engine of this country, annually creating most new jobs and encouraging product innovation and technological advancement.

Not every small business employer can afford to offer the benefits that a large company offers to its employees. Ninety-five percent of the Fortune 1500 companies already provide parental and disability leave. However, the dynamic, growing sector of the economy is dominated by small businesses, some of which are struggling to survive. It is primarily these small businesses that will bear the costs of mandated parental leave.

At the 1986 White House Conference on Small Business, the No. 2 recommendation of the 1,800 delegates was an end to government-mandated employee benefits, including parental leave. More than 600 female business owners present at the conference opposed parental leave legislation by a large majority, urging instead that private-sector solutions be devised.

Discriminatory Effects

Mandated parental leave is discriminatory. Jobs for those in their early family and childbearing years will be jeopardized. Mandated parental leave will handicap prospective parents in the labor market. Faced with mandated parental leave, a business owner choosing between two qualified candidates -- one male and one female -- will select the male. Direct and hidden costs to employers will compel them to think twice before hiring additional employees.

Costs and Competition

Mandated benefits are nothing more than a hidden tax on employment and one more cost of doing business. In a competitive global economy, raising costs would result in higher prices, cutting profits and crippling business's ability to expand and create jobs.

Currently, employers, on average, voluntarily spend a record 39.3 percent of their payroll on benefits, or $10,283 per employee per year. Voluntary annual expenditures on benefits by employers have risen from $190 billion in 1973 to $742 billion in 1986. Vacations, lunch hours, pensions, health insurance, even time off for voting, are working benefits -- like parental leave -- but none of these have been federally mandated.

As mentioned above, employee benefits make up 39.3 percent of an employer's payroll in the U.S. By comparison, in Korea benefits constitute 21 percent of an employer's payroll; in Japan, 16.8 percent; and in Taiwan, 5 percent. Legislation that significantly increases the cost of doing business for U.S. companies limits the U.S.'s ability to compete, and forces businesses to produce goods overseas.

In the past, sponsors of this legislation have pointed to Canada, Italy, Germany, Sweden, Finland, Austria and Chile, all of which grant paid leave as a matter of right to all employees. These countries have a myriad of other government-mandated benefits. Between 1980 and 1986, the total number of people employed in these seven countries increased from 69.5 million to 71 million, an increase of 1.5 million, or 2.2 percent. During that same period, the total number of persons employed in the U.S. increased from 99.3 million to 109.6 million, a net increase of 10.3 million new jobs, or 10.4 percent. European-style government interference in benefit plans is not a precedent that Congress should consider.

Summary

Private employers increasingly are changing their policies and environments to meet the needs of working parents. A range of solutions exists for the needs of working parents in any given workplace. No one solution is necessarily the best. Only after employers and employees assess their needs and decide whether they are capable of providing particular benefits can the appropriate, affordable employer response be instituted.

Ultimately, a healthy economy, jobs, and a cooperative labor-management environment can offer the most basic support -- both financial and personal -- that families must have to survive. The issue is not parental leave, which many support in concept, but the appropriate role of government.

* * *

Senator ADAMS. Thank you, Mrs. Ball.

Questions, Senator Coats?

Senator COATS. Carol, I would like to pursue the question that you raised in your testimony about decisions that you would make as an employer when hiring, because I think that is one of the legitimate questions that has been raised affecting small business particularly. Small businesses we need to remember have employed about 90 percent or created about 90 percent of the new jobs. Most new jobs are those falling to women who are entering the workforce or to new workers, especially young people.

The question arises as to flexibility. As a small employer you have to make determinations when you are dealing with a small workforce and making distinctions between persons whom you are going to hire. You made the statement that, in considering two equally qualified persons, it would be your inclination to hire the one that did not fall in the category which you would apparently assign as the highest risk, such as the woman of child-bearing age. Would you expand on that? Have the organizations you have talked to done any study or questionnaire or survey? Is this a widespread attitude? How serious would this problem be? How detrimental would it be? I am trying to quantify your statement, because I think it is a critical question in this whole area.

Mrs. BALL. Senator, I think it would become a problem. I do not think that people would naturally want to discriminate, it is against the law. I would not go out and openly discriminate against somebody, but given the comparison and talking with the small business owners that I have talked with, if they had the equal right to choose between two qualified employees, they would pick the person that would not be of child-bearing age, if they were equally qualified. I think it would be a detrimental bill to women in the workforce.

Our firm hires a lot of part time employees. I do not even begin to know the ramifications of how this bill would affect them. I know for a long time I always thought a part-time employee was somebody under 30 hours, and now all of a sudden I am looking at, what, 16 or 17 hours a week. To me, that is not a qualified part time or fulltime employee. Anything under 30, I cannot even get on my insurance program that we carry, but I think it would encourage discrimination in hiring practices of small firms.

We do not run with any fact to spare as far as employees are concerned. We have just enough to do the job right and we cannot afford to be without two or three or four employees gone at one time. A gentleman I talked to before I came to Washington this past Tuesday told me that right now he has four women that are working for him that are all pregnant and he is just to the wall as far as the number of employees he can afford to hire and he does not know how he is going to survive four pregnancies or how he would under this type of setup. But I think it would definitely, I am 98 percent female in our employ, I only have one fulltime male and a part-time male on my entire staff, and I think I would take a real strong look at hiring a different practice.

Senator COATS. What kind of arrangements do you make with your employees? Let us say an employee comes to you and presents a case, similar to those cases that have been presented by other panelists here, of serious illness in the family, or a new adoptive child. Let us assume that the family has made a real sacrifice, both financially and time-wise, to adopt perhaps a difficult child. What do you do when an employee comes to you and says, "I just found out my child is seriously ill" or "My parent has cancer" or whatever? What kind of arrangements can you make?

Mrs. BALL. We sit down with each and every individual employee, not myself personally with each one. We have department managers that sit down and they work out a plan that is not only best for the employee but is workable within our firm. We have some women that want to come in to work at 5:00 o'clock in the morning because their husbands are still home at that time, but they want to be home in time for when that child comes home from school. As long as they get their job done, we do not care what time they walk in the door. They can set their hours, kind of a cafeteria-type plan.

But rather than mandating it, you have got to take the personal close touch of the employer and employee relationship to get what is best not only for the employee but also for the firm that they are working for, so that the firm does not go out of business.

Senator COATS. What do we do in those situations where that close personal touch is just not there? What about those that come before us here——

Mrs. BALL. Encourage that.

Senator COATS. How do we do that?

Mrs. BALL. I think better than trying to mandate, encourage them for their programs that they do have and whether it is through tax relief in some form or the other that encourages them to hold insurance programs, et cetera, et cetera. In our own firm, we have medical insurance for our employees, we have life insurance for our employees, we have disability insurance for our employees, we have a catastrophic insurance plan that is available to the employees, but we do not pay the full tilt on this. It is a partnership deal, and I think there would be more people like me if there were more advantages to the employer in offering these types of packages.

Senator COATS. You are talking about tax advantages?

Mrs. BALL. Yes. Yes.

Senator COATS. Credits for paid leave?

Mrs. BALL. Right, instead of penalizing me if my insurance is not—I think section 89 of the IRS Code kind of tells me I am guilty before I have to prove my own innocence. Things like this inhibit the small business person from even wanting to look at insurance and look at programs that benefit the family.

Senator COATS. The bills that we have been looking at that have been introduced in Congress are for unpaid leave. I offered a bill last year in the House which provided an incentive for parental leave if it was paid. In other words, if the business incurred a cost in extending the wages or benefits, including health benefits for negotiated parental leave of certain duration, the employer would then be eligible for an additional deduction or credit against their Federal income tax. Would you see that as a preferable way to go rather than a mandated approach?

Mrs. BALL. I would much prefer a carrot dangling in front of the rabbit than a trapped catching, and I am sorry, sir, but the way I look at the Hill today, the bill might open it up to unpaid leave and how soon is the backdoor going to slam and it is going to be mandatory paid leave?

Senator **Coats**. Of course, the response is we cannot afford to offer that kind of proposal, because that would result in Federal spending and reduces revenues to the Treasury and therefore will mandate the cost to you. How do you respond to that?

Mrs. **Ball**. Why should the deficit be reduced on the back of the small business owner. Why should we be forced to provide the things that Congress cannot afford to provide or feel that they will not go over. I think it should be a mutual agreement between the business people and not a mandated thing. They scare me.

Senator **Coats**. Well, the question would be: to what extent does that inhibit new business expansion or economic development or creation of new jobs.

Mrs. **Ball**. If I had to start my business up and offer all the things that would be mandated, I would not have even gone into business and started a business.

Senator **Coats**. Thank you, Mr. Chairman.

Senator **Dodd** [presiding]. Let me pick up with you, if I can—I will come back to the others on that point. We talk about the incentive to discriminate. Does that not exist right now? Surveys done by a number of firms indicate that maternity disability leave exists in many of places. Does that not exist today, without even this legislation? You have indicated yourself that in looking at potential employees, you look at whether or not they are of childbearing age, whether or not they are married. So, in fact you have got that situation existing in the absence of this legislation, is that not true?

Mrs. **Ball**. I do not feel that it is true, Senator Dodd, especially not in my firm. Like I said, I am 98 percent female employees. I have, like I said, one full-time male and he happens to be my husband, and two part time male on staff in the whole business.

I think the fact that I rely heavily on part time help today and most of the part time help is female help, because they choose to work part time rather than full-time. I do not think that——

Senator **Dodd**. I understand that. You are making the point that this legislation would encourage discrimination, and that was your point.

Mrs. **Ball**. Yes.

Senator **Dodd**. That was your concern. But I want to know from you what exists today that discourages discrimination under the present circumstances.

Mrs. **Ball**. What exists today that would discourage discrimination?

Senator **Dodd**. You claim that the bill would encourage discrimination.

Mrs. **Ball**. Yes, I think this bill would encourage discrimination. I am not saying that there is no discrimination today.

Senator **Dodd**. You know the name of the bill. It is not called maternal leave.

Mrs. **Ball**. I know.

Senator **Dodd**. It is called parental.

Mrs. **Ball**. Yes.

Senator **Dodd**. That includes men and women.

Mrs. **Ball**. Yes.

Senator **Dodd**. So they would apply to men equally as well as to women.

Mrs. **Ball**. Yes.

Senator **Dodd**. So, what makes you think it would cause discrimination if in fact you hire a man that has a child or a woman that has a child, when confronted with this fact situation, how would you discriminate under those circumstances? You could not apply the standard differently to either one of them.

Mrs. **Ball**. I do not really feel that you are going to find in the small business arena that there are going to be many men that take up on a pregnancy or parental leave.

Senator **Dodd**. Do you know many men in this country are single parents, who raise children alone?

Mrs. **Ball**. There is an awful lot of them, sir.

Senator **Dodd**. And it is growing at a 120 percent rate of increase. Almost 2 million men in this country raise children on their own, and you are certainly aware that the generation of men coming along today are far more involved in many ways in child rearing than they were in the past. You are aware of that, of course, as well?

Mrs. **Ball**. In that respect, I do not look at sex, I look at the head of household, whether it is male and/or female.

Senator **Dodd**. Let me, if I can, turn to Dr. Wender. I appreciate your testimony. You say it is well known that children who are hospitalized do better when their parents are with them. Are there some studies that show this and demonstrate that? Do you have any empirical evidence that——

Dr. **Wender**. Yes, Senator Dodd, there are some studies which demonstrate that, some studies that demonstrate that when the parent is more informed and is present more of the time, that the child actually recovers faster from the illness than when that is not the case. I would be glad to—I cannot cite the specific literature for you at this moment, but I would be glad to provide the committee with some of the appropriate studies that suggest this.

Senator **Dodd**. I have been told by others that most hospitals have what would be called a social services department that deal with family-related problems while anybody is in the hospital for whatever reason. Is that generally true?

Dr. **Wender**. Yes.

Senator **Dodd**. I have been told that in cases where you have hospitalized children, that a great percentage of the time of these departments is spent on trying to encourage or ask employers to give their employees additional time so that they can be with their children. Has that been your experience, or are you aware of that?

Dr. **Wender**. Oh, certainly, and it is a terribly heart-breaking thing, as a pediatrician caring for such a child, to see a family struggling with just that issue and the social worker comes to us and tells us this mother wants very much to be here but she cannot, she cannot get time off from her work.

Senator **Dodd**. What is the frequency of that?

Dr. **Wender**. It would be hard for me to give you figures. I think I might be able to investigate what they are, but in the hospital in which I work, I would say that is an issue at least a quarter to a third of the time.

Senator DODD. Dealing with that particular problem?

Dr. WENDER. That is right.

Senator DODD. Do you not find it somewhat ironic in a way—are you familiar with the Ronald McDonald Houses?

Dr. WENDER. Yes.

Senator DODD. I think all of us have probably cut ribbons on Ronald McDonald Houses. It is a tremendous thing that the business community has supported. It is primarily a business. They exist because of the business community. Very few of them receive, that I am aware of, any State funds or local funds to support these homes where parents can stay near a children's hospital where their child is staying, at virtually no cost if they are in that economic situation. Depending upon their economic situation they may pay a higher daily rate, but they can stay free of charge if they need it.

It always struck me as somewhat ironic that there is such sensitivity about the economic needs of the families to be with their children in that situation, and yet we find that over 80 percent of the Fortune 1500 firms, not small firms like yours, Mrs. Ball, but the larger firms in this country, have no policies at all that would allow the very employees that work for them to be able to take the unpaid time without losing their job to stay at the very Ronald McDonald House that they help support.

Dr. WENDER. And it certainly has been, as I said in my statement, my experience that there is less leave allowed in the situations where families are in more marginal employment, with lower incomes and obviously smaller employees.

Senator DODD. Mr. Kroll, we thank you for your testimony and commend you as well. I mean it is not often we get an expert witness to talk about something but also tell us practically what things are like, both in terms of your own upbringing as well as your own family today with an adopted child.

Can you give us just briefly the economic profile of adoptive parents? Where do they generally come from in the economic strata?

Mr. KROLL. I don't have an exact number, but I would like to make an illustration. We have many ways of recruiting these families, and one of the most effective recently to recruit the special needs children who have been waiting for some time for families, is to have them listed in a little column in The National Enquirer. If one were to look at the readership of The National Enquirer in terms of an income and education basis, one would have to say that we are talking about middle income folks, and many of the families who are adopted are large families, they have taken three, four, five, six children under their wings. They become known to the agency and they say will you take just one more and try to—there is another Downs Syndrome child here in need of a family, you already have two, will you take another one.

So, I guess we are talking little income families. We are not talking high income families, by and large, middle to low income families.

Senator DODD. And obviously, the very poor are precluded in many instances from taking on adopted children?

Mr. **Kroll**. Yes, they would be.

Senator **Dodd**. So it is basically the middle income constituency.

Mr. **Kroll**. That is correct.

Senator **Dodd**. The kind of families where you have both parents working, is that not uncommon?

Mr. **Kroll**. We probably have in this group more families where only one parent is working than the national average. I only say that because many of my strongest advocates in the individual States are mothers who are not working outside of the home and take this on as a fulltime job.

Senator **Dodd**. Agencies require—and can you give us some range—I know there are some States that do not require much time at all for one or the other parents to be home with a newly adopted child, and some have rather extended periods of time. What is the range?

Mr. **Kroll**. Well, the range would be no time at home to up to six months has been required.

Senator **Dodd**. By State law?

Mr. **Kroll**. No, by agency practice, and this is the way to actually in a way screen out all the families who want to adopt infants. When we adopted in 1975, and we did adopt an infant from Korea, we had a requirement—and it is in my written testimony—to have the mother at home for six months, which we worked around. But agencies still have requirements and some of this is required by, say, an international placing agency that they are working with.

Senator **Dodd**. So for those 29 million families where you have two wage-earners confronted with those kinds of regulations, they would de facto be excluded from the role of being adoptive parents?

Mr. **Kroll**. They certainly could be, yes.

Senator **Dodd**. Ms. Hoffman, could you expand on the comments you made about the number of weeks typically required for a particular illness? Is there a typical pattern in your view in terms of periods of hospitalization, recovery at home and treatment?

Ms. **Hoffman**. Of course, it depends on the type of cancer that someone has. Now that cure rates are increasing and cancers are being caught at an earlier stage, typically it is less than 13 weeks, so the minimum standard of this Act would be a safety net for a large number of people who are diagnosed with cancer.

Senator **Dodd**. Let me go back to you, doctor. I meant to ask you this, because it relates to the same response. In the eight hearings that I held last year around the country, I began to get the sense that about a six-week period was where for most people with a child illness crisis, the numbers drop off. In other words, after six weeks you are finding less and less of a problem, because the crisis has been solved, obviously with the exception of some cases that are long-term cases. Is that your experience?

Dr. **Wender**. Yes, I think it is the experience of all of us, that hospitalizations are becoming shorter with newer technologies and newer kinds of treatments. What the exact figure is in terms of average stay for a child with a serious illness, I would have to check on that data for you, but that sounds reasonable.

Senator **Dodd**. Ms. Guski, when your father became ill and you requested the second leave, presumably you didn't know how long you would need. Would you have kept your job if you could have only arranged for the 10 weeks total allowed by the bill?

Ms. GUSKI. Yes, I think I would have.

Senator DODD. A witness later this morning, by the way, is going to argue that hospitals cannot guarantee leave because of staffing crises. I wonder if you could comment on that?

Ms. GUSKI. The position that I have now with University General Hospital, we have a lot of temporary or pure RN employees. When someone is out ill, we can call them in and they can replace anyone that is out, they are on—we have probably all-told about 10 employees that can rotate within any department, to fill in, to do that.

Senator DODD. Mrs. Ball, I appreciate your concerns about what the bill is likely to do, and I am just wondering if you had the opportunity to examine the data in terms of employment of women in States where there is mandated parental leave already. Have you had a chance to look at that information? I am now talking about factual information.

Mrs. BALL. Senator, I have not.

Senator DODD. We have had leave policies in place and what is the effect?

Mrs. BALL. No, sir.

Senator DODD. Well, let me invite you to do that and I will be glad to provide you with the information. The data we have is that in fact what you have suggested might happen—and I think you are certainly legitimate enough in raising the concern—in fact has not occurred. In fact employment of women has not fallen off or abated where we have had parental leave policies in place at all. In fact, businesses that have parental leave policies have not found that they have changed their hiring patterns between men and women as a result of that policy.

Have you talked to any businesses that have parental leave policies and had them for some time?

Mrs. BALL. My major area of study in this area, Senator Dodd, has not been so much in that area as it has been in the dearth of the lesser startups in new businesses because of these types of laws, not necessarily that the hiring practices and this type of thing.

Senator DODD. How do you do a survey of people who have decided not to start a business?

Mrs. BALL. I think you would have to go by the way the economy has stopped growing and where new job growth has almost come to a halt, rather than increasing. I would have to say that would definitely have some impact on the number of businesses that start up, especially in the line of the small business.

Senator DODD. You can relate that directly to the fear about a parental leave policy?

Mrs. BALL. Not just that fear, no, sir, I would not be that naive.

Senator DODD. Is there any survey that would indicate that?

Mrs. BALL. I think there have been studies done in the European area on the lack of startup and the stagnation of growth in the business world and in the growth in business as a whole.

Senator DODD. Do you think if we pass the bill, women are less likely to have babies?

Mrs. **Ball**. No, sir.

Senator **Dodd**. Well, I thank all of you for being here this morning. We may have some additional questions for you, but I particularly want to thank those of you who have come some distance to be here.

I know it is probably difficult—if you are as near-sighted as I am, and I am sitting here and I cannot read these graphs from here—but I think we have them in pamphlets or booklets we have put out for you. Just on that last point, while our second panel is joining us, it is interesting to note on this one that you may be able to read, the second one here, employment growth in parental leave States and probusiness States. By pro-business States, I mean in States where there are very little legislation regarding these kinds of issues.

If you look at the firm size in the last 9 years, 1978 to 1987, in parental leave States for firms with less than 20 employees, the growth has been 32 percent. In so-called pro-business States, less than 22 percent growth. In parental leave States, with firms with less than 50 employees, 36 percent; in pro-business, 27 percent. Overall, if you take into consideration all businesses, you can see the kind of growth.

So while there may be, as Mrs. Ball has indicated, some concerns about this, in fact in those very States that have had parental leave policies or variations of them, economic growth or business growth, including small business growth, has been in excess in those States in absence of that kind of legislation. So I appreciate the concern but I think the hard data indicates quite the contrary.

At this point in the record, without objection, I will insert some additional statements which have been submitted to the subcommittee on this proposed legislation.

[The supplemental statements referred to follow:]

SUPPLEMENTAL MATERIALS

IN ADDITION TO THE WITNESSES BEFOTE US TODAY, WE HAVE A NUMBER OF LETTERS FROM WITNESSES WHO COULD NOT BE HERE AS WELL AS A NEWLY-RELEASED STUDY ON ELDER CARE. I WOULD LIKE TO PLACE THIS MATERIAL IN THE RECORD AND BRIEFLY DESCRIBE ITS CONTENTS.

1. LETTERS

- FROM LUCY STEINITZ IN BALTIMORE, WHO IS AN ADOPTIVE PARENT AND THE DIRECTOR OF THE JEWISH FAMILY SERVICES IN BALTIMORE:

  "MY HUSBAND COULD NOT EVEN GET THIS AMOUNT OF TIME OFF (3 WEEKS), SO THAT AN EXPERIENCE WHICH SHOULD HAVE BEEN A VERY JOYFUL ONE BECAME, IN FACT, UNDULY STRESSFUL FOR ALL CONCERNED...OUR SON SUFFERED SEVERE ADJUSTMENT PROBLEMS...A GUARANTEED ADOPTION LEAVE WOULD HAVE MADE A BIG DIFFERENCE TO US."

- FROM A PARENT IN TENNESSEE WORKING WITH ST. JUDE'S HOSPITAL -- AND TOO FRIGHTENED TO IDENTIFY HER NAME:

  IN WRITING ABOUT HER FAMILY'S FIVE YEAR BATTLE AGAINST THE CHILD'S LEUKEMIA, SHE SAYS "THE THOUGHT OF LOSING YOUR CHILD AND SECURITY AT THE SAME TIME: THAT WOULD BE A GREAT TOTAL LOSS." SHE DESCRIBES A POINT WHERE THE BOSS DIDN'T UNDERSTAND WHY THE FATHER HAD TO BE AWAY AND ONLY LET HIM GO TO HIS CRITICALLY ILL CHILD WHEN THE DOCTOR GOT ON THE PHONE.

- FROM CARMEN MAYA, WHO WAS FIRED AFTER 19 YEARS OF WORK AT ST. JOSEPH'S HOSPITAL IN CHICAGO. WHEN PREGNANT, SHE DEVELOPED EDEMA OR SEVERE SWELLING IN HER LEGS. ALSO, HER BABY WAS BORN WITH DOWN'S SYNDROME. AS SHE WAS PREPARING TO RETURN TO WORK AFTER TWELVE WEEKS OF COMBINED MEDICAL AND FAMILY LEAVE, HER SUPERVISOR INFORMED HER THAT HER JOB WAS NO LONGER OPEN.

  SHE SAYS: "I USED TO CONSIDER MYSELF MIDDLE CLASS; NOW I SEE MYSELF STANDING IN GOVERNMENT LINES ASKING FOR FOOD AND I SHAKE MY HEAD BECAUSE IT DOES NOT SEEM REAL. I STILL CANNOT BELIEVE THAT, AFTER ALL THOSE YEARS AS A RESPONSIBLE EMPLOYEE, ONE PERIOD OF ABSENCE FROM WORK BECAUSE OF SERIOUS MEDICAL AND FAMILY NEEDS COULD CAUSE ME TO LOSE MY JOB."

- FROM LISA CAEZZA, WHO WAS FIRED BY BROWN UNIVERSITY WHEN SHE WAS HOSPITALIZED WITH A BLEEDING ULCER. SHE NEEDED JOB PROTECTION FOR BOTH ELDER CARE AND MEDICAL LEAVE. AFTER CARING FOR HER TERMINALLY ILL MOTHER, MS. CAEZZA DEVELOPED AN ULCER. WHEN HER SISTER BROUGHT HER MAIL TO THE HOSPITAL, IT INCLUDED A NOTICE OF TERMINATION. EVENTUALLY MS. CAEZZA'S UNION WAS ABLE TO WIN HER JOB BACK, BUT ONLY AFTER A LONG FIGHT.

- FROM FLORENCE McKEEVER, A FIFTY-SIX YEAR OLD MOTHER OF SIX AND GRANDMOTHER OF TWELVE, WHO LOST HER JOB AFTER 14 YEARS AS A

FULL-TIME HOUSEKEEPER -- ALL BECAUSE SHE BROKE A BONE IN HER FOOT AND COULD NOT WORK FOR 12 WEEKS.

SHE SAYS: "JOBS FOR A FIFTY-SIX-YEAR-OLD WOMAN WHO HAS NEVER FINISHED HIGH SCHOOL ARE HARD TO FIND...BECAUSE OF ONE BRIEF PERIOD OF DISBAILITY, I LOST MY JOB AND SEVERELY INJURED MY SELF ESTEEM, IN ADDITION TO LOSING MY JOB BENEFITS AND MY FAMILY'S FINANCIAL SECURITY .... I CANNOT EXPRESS STRONGLY ENOUGH MY FEELING THAT ANY LAW THAT ALLOWS THIS IS VERY, VERY WRONG. MY HUSBAND AND I SCRIMPED AND SAVED TO MOVE OUT OF THE PROJECTS IN WHICH WE WERE FORCED TO RAISE OUR CHILDREN; NO EMPLOYER SHOULD HAVE THE RIGHT TO PUT US BACK THERE BECAUSE OF A TEMPORARY PERIOD OF DISABILITY."

STATEMENT ON BEHALF OF A NATIONAL ADOPTION LEAVE LEGISLATION

Lucy Y. Steinitz, Ph.D., Executive Director
Jewish Family Services, Baltimore, Maryland

My name is Lucy Y. Steinitz and I live in Columbia, Maryland. My advocacy on behalf of this legislation comes from my dual experience as an adoptive mother of two, and professionally, as the executive director of the 170 member staff of Jewish Family Services in Baltimore. While I have some flexibility as executive director to determine leaves of absence on behalf of my staff, neither our personnel code -- nor that of our parent body, the Associated Jewish Charities -- contain any adoption or parental leave, per se. As in most other companies, maternity leave is maintained as a subset of short-term disability or sick leave, and thus cannot be applied in situations where there has been no biological birth.

In my own situation, I was able to accrue some vacation time which, two years ago for the adoption of my daughter amounted to four weeks' leave, and this past December when we adopted my son, I had a total of three weeks off. My husband, who works for a computer consulting firm in Rockville, could not even get this amount of time off, so that an experience which should have been a very joyful one became, in fact, unduly stressful for all concerned. Our son, for example, was seven months old when we got him: he deeply mourned his foster family (with their manner of language, touch, and parenting style). He suffered some severe adjustment problems around eating, sleeping (or more specifically not sleeping), and illness. As in any other new parenting situation, we also had to work out issues of child care (which are never easy, even in the best of circumstances), feeding schedules, and a new relationship between parent and child, brother and sister.

A guaranteed adoption leave would have made a big difference to us. In fact, I think there are three reasons why an adoption leave policy is imperative for the United States at this time:

- It is good family policy, and will encourage adoption as a meaningful alternative to prolonged foster care, institutionalization, or deprivation -- especially in the case of older or special needs children, for whom the adjustment to a new family setting is particularly sensitive.

- It treats the adopted child as an equal to the biological child in a family, giving him or her an equal start in life. If anything, these children need the bonding period more than their biological siblings. It gives them a good start in their adoptive, so-called forever families -- which is crucially needed as a psychological foundation on which they will have to depend in later life.

- It makes good economic sense. As an employer, I know that when I can meet my employees' leave requests, they come back to the agency as long-term, productive workers. Alternatively, I lose them, which results in recruitment and retraining costs -- and a disruption of service to our clients that is probably in excess of whatever the former employee's leave would have been. When workers come back to the job before they feel ready, as in my own case, they are often over-stressed and their quality of work suffers. I have noticed that in myself over the last couple months.

This proposed new legislation will help us. It would authorize a policy common to most of the industrialized world -- if West Germany and other European countries aren't suffering in the marketplace as a result of this type of policy, we won't either. I urge this legislation's passage, and thank you for the opportunity to present my testimony.

LS:er-5r
2/1/89

ST. JUDE CHILDREN'S RESEARCH HOSPITAL
332 North Lauderdale P.O. Box 318
Memphis, Tennessee 38101-0318
(901) 522-0300

Danny Thomas, Founder

30 January 1989

Senator Christopher Dodd
444 Russell
Senate Office Building
Washington D.C. 20510

Dear Senator Dodd:

This letter is a plea written in honor of all parents who have terminally ill children or children with catastrophic diseases. People who have never experienced this type of horror in their life may not understand, but think of how precious a job and security are to you and your family. The thought of losing your child and security at the same time: that would be a great total loss.

I urge you and your fellow senators to be sympathetic to parents struggling with a child's catastrophic illness and threat of job loss. Children are very important to our country, but so are our jobs. Jobs keep our children clothed, fed, educated and protected from the weather.

It is important for mother and daddy to be able to spend much time supporting their sick child, each other and their families. Daddy also has to be at work as much as possible without fear of losing his job and security for his family. Please think of this before you vote against the Parental Leave Bill.

I have the right to ask for your support on this bill because in 1981 my child became ill with acute lymphoblastic leukemia. My husband and I and two older children started a 5 1/2-year battle with trips to a hospital 2 1/2 hours from home once a week; sometimes at 2 or 3 A.M. in the morning if he should develop fever. There was relapse after relapse starting in 1984. There were several times we spent up to 2 months in the hospital. One year we went in October and stayed until after Valentine's day.

My child and I needed daddy's support a lot. There was one time we needed him but his boss didn't quite understand why he had to be away from his job. We went a few miles without him. Finally when he was critically ill, a doctor got on the phone and told his boss just what the circumstances were and he was able to leave work and join us. Our little boy went to Heaven 29 January 1987.

This illness resulted in loss of income but not total loss of job. We still have our jobs and security. We were blessed but there are so many parents who lose their jobs and security because they have to care for their little children. What happens then with so few jobs around.

What if your child gets sick and you lose your job or if this happens to your children and grandchildren? Please think from your heart and support these parents who are stressed from not knowing how to medically help their children but can help their family by keeping their jobs and security.

Sincerely,

The Mother of a Leukemia Victim
St. Jude Children's Research Hospital
Memphis, Tennessee

Jeanne Dycus, A.C.S.W.

/dsw

1214 West Granville St.
Chicago, Illinois 60660

Senator Christopher Dodd
Subcommittee on Children, Families,
Drugs, and Alcoholism of the United
States Senate
639 Hart Building
Washington, D.C. 20510

February 1, 1989

Dear Senator Dodd,

My name is Carmen Maya. I write to you today to express my strong support for your bill that would guarantee employees their jobs when they return from family and medical leaves. I believe that my situation starkly demonstrates the need for this bill.

I am a single mother of three who worked as a pharmacy technician for nineteen years at St. Joseph's Hospital in Chicago, Illinois. In May of 1988, when I was pregnant with my third child, I began to have severe problems with edema, a condition that caused fluid to gather in my legs, which was complicated by my pregnancy. By the end of May, my legs had swelled up so badly that my feet no longer fit in my shoes and I had difficulty walking. At my doctor's insistence, I requested a temporary leave from work. On June 3, 1988, my employer granted me disability leave that I had accrued under the hospital's plan; it was agreed that I would return on July 18, 1988.

My baby was born on June 17, 1988. However, my edema failed to subside immediately after the birth and I was still unable to walk comfortably. Because of my medical condition, and because I needed to make arrangements for my new baby, who was born with Down's syndrome, I requested additional leave time. My supervisor agreed that my leave would be extended to August 31, and that I should return to work on September 1. In preparation for my return to work, I enrolled my child in a program to take care of her special needs and arranged to have a certified babysitter take care of her on those days that she did not attend the program.

On August 26, 1988, however, as I was preparing to return to my job, my supervisor called to ask me to meet with her. At the meeting she told my job was no longer being held open for me. I was so stunned I didn't know what to say. According to my supervisor, however, the decision was final. I was therefore left without my job because I had needed twelve weeks of family and medical leave while employees with far less seniority now fill the pharmacy technician positions at the hospital.

The loss of my job has changed my life and the lives of my children dramatically. My three children and myself had no other source of income beside the $9.15 per hour that I made at the hospital. Now our only income comes from the $198 weekly check that I receive from unemployment. Even with this check, it is a losing struggle simply to put food on the table for my children. Baby formula is now forty dollars a case, and I simply do not have the money to buy it any longer. As a matter of last resort, I have finally had to seek food from government programs. I now spend time waiting in line at the Women, Infant, and Children supplemental food program (WIC), which provides formula, cereal, and juice for my baby. WIC does not provide baby food, however; I have therefore also had to apply for baby food at Baby Care, another government-funded program. I do not know what I will do when my unemployment insurance expires at the end of this month. I pray that by that time I will have found a job. Yet, since losing my job I have searched and searched to find other employment and have not had any success.

At times I feel that this is a nightmare and that soon I will wake up and things will be the way they were before I lost my job. I used to consider myself middle class; now I see myself standing in government lines asking for food and I shake my head because it does not seem real. I still cannot believe that, after all those years as a responsible employee, one period of absence from work because of serious medical and family needs could cause me to lose my job. I retain faith and hope that I will get back on my feet eventually, but no one should have to go through what I have gone through. It is when people have recovered from their illnesses or have just had a baby that they most need their income. Allowing them to be fired because they needed a brief period of leave is unfair, unjust, and, in my view, unforgivable. Because of the nightmare that the loss of my job has caused me and my family, I strongly support the proposed family and medical leave bill.

Sincerely,

Maxine Eichner for Carmen Maya

Maxine Eichner for Carmen Maya

SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO, CLC
1313 L STREET N.W. • WASHINGTON, D.C. 20005 • (202) 898-3200

JOHN J. SWEENEY
INTERNATIONAL PRESIDENT

RICHARD W. CORDTZ
INTERNATIONAL SECRETARY-TREASURER

STATEMENT BEFORE THE SUBCOMITTEE ON CHILDREN, FAMILY, DRUGS & ALCOHOLISM

LABOR AND HUMAN RESOURCES COMMITTEE

U.S. SENATE

"THE FAMILY MEDICAL LEAVE ACT"

FEBRUARY 2, 1989

SUBMITTED BY:

LISA CAEZZA, CLERICAL ASSISTANT
PROVIDENCE, RI

SERVICE EMPLOYEES INTERNATIONAL UNION
LOCAL #134

Chairman Dodd and members of the subcommittee, thank you for allowing me the opportunity to testify before you today.

My name is Lisa Caezza, and for the past eight years have worked as a bindery assistant in the Brown University library. As you may know, Brown University is a private university in Providence, Rhode Island employing over 2,500 workers.

My contract provides me with $15,000 in wages as well as paid health insurance. It also includes provisions covering family leave to care for ailing parents and medical leave for one's own serious illness. Rhode Island is one of five states that provides partial payment in periods of medical disability. While the state law provides wages for disability, there isn't any job protection.

Two years ago, I requested and received 54 days of leave to be with my mother in her final days in the hospital. I love my family, and care very deeply for them. But I also recognized the responsibility I had to those I work with. When it was clear I needed to be with my mother, I approached my supervisor with the proposal to resign from my position. I even offered to come in on a part-time basis. She insisted that accommodations could be worked out to meet the personal obligations I had to my family, and to go ahead and take the time off. Under our contract, we were allowed up to a 12 month leave of absence for family illnesses. The leave period was ultimately granted and I took off a total of 54 days of leave.

That period was the most difficult time in my life. On the outside, I was the anchor of support for my brothers and sisters and stayed at my mother's bedside to the end. But on the inside, the emotional events were terribly painful. Following my mother's death, I immediately returned to work.

One month following my return, I started experiencing a great deal of pain. When I was checked by my doctor, he said I was on the verge of having a bleeding ulcer and insisted I stay home for up to three months to recover. The stress of being with my mother, the decisions I made during that period, and the early return to work had taken its toll. When I told him I needed verification for work, he put down a preliminary estimate of one month for recovery. I went to my supervisor who reluctantly agreed. This was done with the understanding that my illness could turn into something worse and require an extended disability period.

My health condition continued to decline, until in the last days, I was rushed to the hospital with a bleeding ulcer. I was hospitalized for a period of seven days and it was clear that I would not be able to return to work. I contacted my supervisor from the hospital. She was not happy, but was told that returning to work would seriously jeopardize my health.

On the last day, my sister brought my mail to the hospital. Included in it was a notice of termination from the University. I was astonished that an employer who I had been willing to accommodate every step along the way, could dismiss me in so callous a manner. Although the termination came at the hands of my supervisor, my immediate boss was highly supportive of me, and did not complain of any problem my continued absence created.

The University eventually reinstated me, but only after my union fought hard for my position. They needed to fight for me despite the state disability law and the contract.

I now realize with some irony that my state's paid disability law is not the same as a guaranteed medical leave. Job security is not ensured under either state or federal law.

Senator Dodd, workers, whether single or married, seek relief from bargaining on their own for these basic rights. The times we are talking about are extremely difficult on one personally. Workers must have a minimum period of family leave to care for their ill parents and children. But it is equally important to take care of themselves when they are ill, and not force these workers out of their hospital beds when they are too sick to work.

Please help us be able to help our families. The federal government needs to be on the side of us "little guys" a little more. It's the only decent thing a compassionate nation can do in representing the interests of those of us who can't fight alone.

1416 T St., S.E.
Washington, D.C. 20020

Senator Dodd
Subcommittee on Children, Families,
Drugs, and Alcoholism
639 Hart Building
Washington, D.C. 20510

February 1, 1989

Dear Senator Dodd,

My name is Florence McKeever. I am a fifty-six year old mother of six and grandmother of twelve. For fourteen years, beginning May 5, 1974, I worked as a full-time housekeeper for the Foreign Affairs Recreation Association, a private company of approximately one hundred employees that maintained apartments for State Department visitors. During that time, I consistently received positive evaluations and praise for my job performance.

On March 20, 1988, I broke a bone in my foot in an accident at home. I therefore had to take a temporary leave of absence from work. My physician told me that I could not return to work until June 13, 1988, approximately twelve weeks after my accident. My employer gave me the eight weeks of sick leave to which I was entitled under his policy. However, I had no annual leave accrued and he refused to allow me an advance on my annual leave. When I began recuperating, I did not know whether I would have a job to return to or not. The lack of job security during my recuperation caused me great stress.

On May 23, 1988, I received a letter from my employer stating that I could not return to my full-time job. Instead, my employer offered me a job as a part-time maid without the benefits I had previously received. The part-time position, I found out from my employer, would not give me steady hours, and would require that I work on weekends.

I was shocked by my employer's actions. I had been a loyal, hardworking employee for fourteen years and had never expected that one accident, which kept me out of work for under three months, could serve as the basis for my discharge. I was also concerned for the welfare of my family. My husband and I needed the $309 I earned in take-home pay every two weeks. My husband's job as an employee at a drug store could not support us and the five-year old granddaughter we have been raising. The part-time job I was offered did not pay enough to make ends meet. Also, I could not work the weekend hours that the part-time job required because our granddaughter does not attend school during the weekends and because I sing in my church choir each Sunday.

Because I could not afford the cut in pay and could not work the hours demanded of the part-time job, I was forced to seek another job. However, jobs for a fifty-six year old woman who has never finished high school are hard to find. After weeks of failing to find work, I was forced, for the first time in my life, to apply for unemployment benefits. Since then, I have continued my efforts to find a new job, but have not succeeded. In the meantime, I am taking adult education classes to earn my Graduate Equivalence Degree in the hopes of obtaining another job. I hope eventually to become a floor designer.

Because of one brief period of disability, I lost my job, my job satisfaction, and severely injured my self esteem, in addition to losing my job benefits and my family's financial security. Although I consulted several legal aid attorneys, they all told me the same thing: as the long stands now, my employer's actions were completely legal.

I cannot express strongly enough my feeling that any law that allows this is very, very wrong. My husband and I scrimped and saved to move out of the projects in which we were forced to raise our children; no employer should have the right to put us back there because of a temporary period of disability.

Sincerely,

Florence McKeever

Florence McKeever

NATIONAL CONFERENCE OF CATHOLIC BISHOPS
BISHOPS' COMMITTEE FOR PRO-LIFE ACTIVITIES
1312 MASSACHUSETTS AVENUE, N.W. • WASHINGTON, D.C. 20005 • 202/659-6673

September 23, 1988

Dear Senator:

You may soon have an opportunity to vote on S. 2488, the Parental and Medical Leave Act. I am aware that many organizations have expressed views of S. 2488 from a variety of viewpoints. I would like to address this proposal in terms of its potential for protecting innocent human life.

Our achievement-oriented society tends to dismiss far too easily the dignity and worth of certain classes of human beings. This is certainly true of the unborn child, the most vulnerable member of our human family. Unfortunately, women in the work force sometimes face a dilemma when they become pregnant: either have an abortion, or risk the loss of job and livelihood by giving birth and taking maternity leave. A male employee can also be forced to choose between job and family responsibilities if his wife will require special medical care during or after pregnancy.

Similar pressures can operate to the detriment of newborn children. There have been instances when parents were persuaded to withhold ordinary life-saving medical treatment from their handicapped newborn child, on the grounds that the child would require time-consuming care if he or she survived.

By guaranteeing that employees will not lose their jobs if they must take medical leave or must care for a seriously ill child, the Parental and Medical Leave Act helps to ameliorate some of these pressures. The House version, H.R. 925, also provides appropriate help to those who must care for an elderly family member with a serious illness.

It has been said that by allowing employees to take unpaid leave in such emergencies these bills would impose new burdens on employers and even on other employees. But protecting and nurturing vulnerable human life always involves burdens, and is seldom as easy in the short run as solutions that neglect or destroy life. Our society can help individuals and families in need by ensuring that some of their burden will be shared among the rest of us. Because it offers a reasonable means for achieving this goal, the Parental and Medical Leave Act merits your support.

Sincerely,

(Rev.) John W. Gouldrick, C.M.

(Rev.) John W. Gouldrick, C.M.
Director

children's hospital
national medical center 111 MICHIGAN AVENUE, N.W. WASHINGTON, D.C. 20010 • (202) 745-5000
DEPARTMENT OF CHILD HEALTH AND DEVELOPMENT GEORGE WASHINGTON UNIVERSITY
CHILD HEALTH CENTER • RESEARCH FOUNDATION OF CHILDREN'S HOSPITAL

September 21, 1988

The Honorable Christopher Dodd
Hart Senate Office Building
Washington, D.C. 20510

Attention Rich Tarplin

My dear Senator Dodd:

This letter is intended as background for deliberations on the pending Bill S2488, the Parental and Medical Leave Act.

Without reference to specific details of the Bill, I can tell you from my 30 years of experience working with parents and children in this hospital that one of the most fruitful elements in treatment of a very ill child is the presence of his or her parents as much as possible during hospitalization. Dr. Reginald Lourie, our former Director of Psychiatry, who died this year, was a world leader in promoting visitation by parents during hospitalization of sick children. In fact, our institution was among the first to have rooming-in for parents. In our new building every room except those for intensive care has the capacity for one or both parents to stay with the child. Other programs such as a Child Life Program can help but the parents are the key element in the growth and development of children. Hospitalization, particularly for serious illness, can significantly set back a child's development. And the absence of the family link may enhance this detrimental effect.

I hope these thoughts are helpful as you and your colleagues debate S2488.

Sincerely yours,

Robert H. Parrott

Robert H. Parrott, M.D.
Professor
Director Emeritus

RHP/d

THE
CANDLELIGHTERS
CHILDHOOD CANCER
FOUNDATION

An International Parent Support Network

Suite 1001
1901 Pennsylvania Avenue, N.W.
Washington, DC 20006
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*Parent of a child with cancer
**Adult survivor of childhood cancer

September 20, 1988

The Honorable Christopher Dodd
U.S. Senate
Washington, D.C. 20510

Dear Senator Dodd:

The Candlelighters Childhood Cancer Foundation, a national organization representing families of children with cancer wishes to thank you for your leadership on the Parental and Medical Leave Act (S. 2488).

Our families, striving to continue normal lives, while meeting their child's complex treatment schedules, desperately need the leave to attend to their child without having to sacrifice their employment and its income required to cover the enormous medical and out-of-pocket expenses of care for a child with cancer.

Without such public policy, our nation loses: loses the child whose treatment regimens are sacrificed to employment schedules; loses the tax base from the parents' employment; loses the public funds needed to carry a family that, because of lost employment, can no longer fend for itself.

In this election year when candidates tell us they care about the children of this country, our families look to our public officials to enact public policy that truly supports all children and families. On behalf of all American families, we look forward to the swift enactment of this legislation.

Sincerely,

Julia Sullivan

Julia Sullivan
Executive Director

ST. JUDE CHILDREN'S RESEARCH HOSPITAL
332 North Lauderdale P.O. Box 318
Memphis, Tennessee 38101-0318
(901) 522-0300

Danny Thomas

22 September 1988

Senator Christopher Dodd
U. S. Senate
Washington, D. C. 20510

Re: SENATE BILL NO. S2488

Dear Senator Dodd:

I am a pediatric neurologist at St. Jude Children's Research Hospital in Memphis, Tennessee, where my work involves care for children with catastrophic diseases such as tumors of the central nervous system. I am writing in support of proposed legislation which would allow parents to receive up to ten weeks of leave of absence from employment in the event of childbirth, adoption or serious illness. As I am sure you understand, one cannot overstate the importance of having a parent's support while a child is undergoing frightening and at times painful treatments for a life threatening disease. This bill would enable a parent to be at the side of his or her child during this time of need.

Thank you for giving this bill your positive consideration.

Sincerely,

EHKovnar

Edward H. Kovnar, M. D.
Division of Neurology

EHK/pb

THE CHILDREN'S HOSPITAL OF PHILADELPHIA

RUSSELL C. RAPHAELY, M.D.
Senior Anesthesiologist
Director, Pediatric Intensive Care Complex
Associate Professor of Anesthesia and Pediatrics
(215) 596-9394

DEPARTMENT of ANESTHESIA and CRITICAL CARE
The Children's Hospital of Philadelphia
Philadelphia, Pennsylvania 19104
(215) 596-9100 Hospital
(215) 596-9387 Department

September 21, 1988

Senator Christopher Dodd
Hart Senate Office Building
Washington, DC 20510

Attention: Rick Tarplin

Dear Senator Dodd:

I am a physician who cares for over 1600 critically ill infants and children at The Children's Hospital of Philadelphia each year. In the Intensive Care Complex as well as other regular patient care areas within the Hospital we permit and encourage visitation by parents 24 hours a day as the child's care allows. We favor this because of the benefit ill infants and children and their families derive from the interaction. We are convinced recovery from the physical malady occurs more promptly when an infant or child receives emotional support from visiting parents. Bill S.2488, "The Parental and Medical Leave Act", will enhance the ability of parents to visit their children who are hospitalized and hope you will view it similarly.

Sincerely yours,

Russell C. Raphaely, MD

Russell C. Raphaely, M.D.

RCR:rlc

UNIVERSITY OF PENNSYLVANIA SCHOOL OF MEDICINE

American
Academy of
Pediatrics

Department of Government
Liaison
American Academy of
Pediatrics
1331 Pennsylvania Avenue, N.W.
Suite 721 North
Washington, D.C. 20004-1703
(202) 662-7460
(800) 336-5475

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Palo Alto, California

September 21, 1988

Honorable Christopher J. Dodd
United States Senate
Washington, D.C. 20510

Dear Senator Dodd:

In the 1980's there have been many calls to strengthen the American family and to support American business. Business needs a strong and loyal workforce, that can be supported in times of personal crisis such as the birth, adoption or serious illness of a child.

S.2488, the Parental and Medical Leave Act eliminates for parents the painful and often hopeless choice between keeping their job and caring for their child during a medical crisis. The bill would allow parents the opportunity to take unpaid leave without the threat of losing their job or jeopardizing their seniority. Having this option available safeguards the family's economic security while the parent fulfills the urgent responsibility to care for his or her child.

For over thirty years, it has been well known that children who are hospitalized get well faster and have fewer complications when their parents are able to be with them. A child's physical and emotional well being heavily depend on parental participation during a serious illness. Children have increased dependency needs when they are sick, and require the unique warmth and security that only their parents can offer. In this era of shorter hospital stays, parental involvement with the homebound child may also be necessary for treatment during the recuperation period. Allowing parents the option to care for, comfort and stay with their seriously ill children is sound pediatric practice.

The American Academy of Pediatrics strongly supports S.2448. It is time to address the changing face of American work and family life with reasonable solutions that recognize the value of families, while balancing the needs of employers. S.2488 does both.

Sincerely,

Richard M. Narkewicz, M.D.
President

American
Academy of
Pediatrics

141 Northwest Point Road
P.O. Box 927
Elk Grove Village, IL 60007
Phone (312) 228-5005

Committee of the
Section on
Emergency Medicine

September 22, 1988

Senator Christopher Dodd
Hart Senate Office Building
Room 639
Washington, DC 20510

Dear Senator Dodd:

I, as a pediatrician working in a children's hospital, would like offer my support for S2488 the parental notification bill. When children are acutely ill or severely injured, they need their parents at the bedside. Often following an injury, the child needs time at home for rehabilitation. Having a parent available for this makes discharge possibilities quicker, and emotional care as well as physical care by the parents available.

Sincerely,

Carden Johnston, MD
Associate Professor of Pediatrics
Director, Emergency Medicine

CJ/bs

Copy: Senator Howell Heflin

Epilepsy
FOUNDATION OF AMERICA
®

September 26, 1988

The Hon. Christopher J. Dodd
Chairman
Subcommittee on Children, Family, Drugs and Alcoholism
United States Senate
Washington, D.C. 20510

Dear Senator Dodd:

The Epilepsy Foundation of America, the only national voluntary organization that is dedicated to advocating for the more than two million Americans with epilepsy is pleased to reiterate our strong support for S.2488, the Parental and Temporary Medical Leave Act.

100,000 new cases of epilepsy develop each year -- 75% of them in children and adolescents. Epilepsy appears without warning in all races and at all social levels. Effective seizure control can be achieved in 80% of all new cases *if* the child's seizure type is accurately diagnosed and the child receives proper treatment.

Epilepsy is a complex disorder - seizure types vary considerably. Treatment for many cases is beyond the expertise of local physicians or hospitals. Regional treatment centers, most of which are located in major metropolitan areas, are the only option in some cases.

Families who live in rural areas must then travel considerable distances and take time off from work to insure that their children receive the comprehensive evaluation and treatment they require.

Hospitalization is often required for children with intractable seizures - to both obtain an accurate diagnosis and establish an effective drug regimen. Doctors usually advise parents to stay with their children in the hospital. The trauma and stress associated with a strange environment can cause more seizures.

We cannot insure that children will receive appropriate treatment unless job security for their parents is available. Society bears enormous costs if children with epilepsy do not receive appropriate treatment. Problems later on may range from difficulty in school to a lifetime of unemployment and dependence on benefits from the federal government.

National Headquarters
4351 Garden City Drive • Landover, MD 20785 • (301) 459-3700 • Fax (301) 577-2684

Epilepsy often wreaks emotional havoc on a family. It is stressful, not only for the child and the parents, but for other children as well. In addition, many families face considerable financial hardship due to their lack of insurance. Lack of job security exacerbates an already intolerable situation.

The medical leave provisions of S.2488 are also critical for adults with epilepsy. We have enclosed a very poignant story from a man in Minnesota which we believe illustrates both the urgent need for medical leave for adults and the trauma experienced by a family with a seriously ill child.

Our nation cannot afford to deny job security to parents of children with serious health conditions and to workers who become seriously ill. Thank you again for your leadership on this critical legislation.

Sincerely,

Jeanne Cahill

Jeanne Cahill
Chair
Government Affairs Committee

[illegible]
[illegible] with
[illegible]

For More Information Contact:

Liz Savage, EFA (459-3700)
Kathy McGinley. ARC (785-3388)

September 20, 1988

The Honorable Christopher Dodd
U.S. Senate
Washington, D.C. 20510

Dear Senator Dodd:

The following members of the Consortium for Citizens with Developmental Disabilities (CCDD) and other national organizations that advocate for the rights of persons with disabilities and chronic illnesses and their families wish to thank you for your leadership on the Parental and Temporary Medical Leave Act (S.2488).

Because of the lack of uniform leave policies, thousands of families of children with serious illnesses and disabilities in America have been forced to make a choice between keeping their jobs and taking care of their children. For many of these families, this choice threatens the economic survival of the entire family. This legislation will insure that many of these families will not have to make this choice.

We also strongly support the provisions for temporary medical leave in this bill. The onset of serious illness can be tragic to all workers - regardless of their sex, age or disability. However we believe the real American tragedy is the current lack of guaranteed job security for these workers.

Serious illness knows no socio-economic barriers. We cannot as a nation champion the values of family yet turn our backs to individuals or families struck by serious illness. We look forward to the swift enactment of this legislation when it reaches the Senate floor. Thank you.

Sincerely,

American Academy of Child and Adolescent Psychiatry

American Foundation for the Blind

Association for Retarded Citizens of the United States

Autism Society of America

Child Welfare League of America

Disability Rights Education and Defense Fund

Epilepsy Foundation of America

Mental Health Law Project

National Association of Developmental Disabilities Councils

National Association of Parents of the Visually Impaired

National Association of Protection and Advocacy Systems

National Down Syndrome Congress

National Head Injury Foundation

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National Organization for Rare Disorders

SKIP, Sick Kids (Need) Involved People

Spina Bifida Association of America

The Association for Persons with Severe Handicaps

United Cerebral Palsy Associations, Inc.

March of Dimes
Birth Defects Foundation
National Public Affairs Office
1275 K Street NW Suite 814
Washington DC 20006
Telephone 202 659 1800

March of Dimes
Preventing Birth Defects

May 1, 1987

The Honorable Christopher Dodd
United States Senate
Washington, DC 20510

Dear Senator Dodd:

I am writing to commend you for introducing the Parental and Medical Leave Act.

The mission of the March of Dimes is to prevent birth defects and to reduce their consequences. Every 2 minutes, another American baby is born with one or more birth defects. More than 1.2 million people of all ages in this country are hospitalized every year for treatment of birth defects.

Enactment of the proposed legislation would provide the parents of an infant with birth defects with the time and job security that they need while arranging specialized medical care for their baby. This legislation also would benefit women with complicated pregnancies, who may require an extended period of recuperation.

The March of Dimes will urge all Senators to favorably consider this proposed legislation.

Sincerely,

Anne Harrison-Clark

Anne Harrison-Clark
Director of Public Affairs

cc: Connecticut Chapters

Spina Bifida Association of America
1700 Rockville Pike, Suite 540
Rockville, MD 20852
(301) 770-SBAA

September 28, 1988

The Honorable Christopher Dodd
639 Hart Building
Washington, D.C. 20515

Dear Senator Dodd:

The Spina Bifida Association of America applauds your efforts on behalf of all American families for sponsoring The Parental and Medical Leave Act, S. 2488.

This legislation is especially important to the parents of children born with spina bifida. With aggressive medical and surgical intervention, especially in the early years, these children will have the opportunity to maximize their potential for normal development and eventual independence and self-sufficiency. As a result, this population often requires numerous hospitalizations. Studies have well-documented the emotional trauma that results from hospitalization, especially in the first few years of life. The actual physical presence of the parents has been proven to minimize this effect. It is also extremely important for the parents to have a thorough understanding of a variety of complex medical conditions in order to prevent complications from developing. In the case of the parents of newborn children, we feel very strongly that the best support that can be given at this difficult time is knowledge about their child's condition - which is best learned from hands-on experience right in the neonatal nursery. It is also especially critical for the parents to participate in the baby's care to develop a strong bonding relationship.

We have a new growing population of adults with spina bifida who are emerging into the work force. While their medical conditions are basically stabilized, there may be occasions when attention needs to be given to a medically-threatening situation to make sure it does not become a crisis or a long-term problem. The Medical Leave Act would provide the job security they need to be able to manage their health needs in a responsible manner, without jeopardizing their employment status. Loss of employment for medical reasons would mean many more of these adults would return to the welfare roles.

Thank you again for your support of this legislation.

Sincerely,

Sandi Johnson RN

Sandi Johnson, R.N.
Program Director

JAMES L. SOLOMON, JR.
COMMISSIONER

South Carolina
Department of Social Services
P. O. BOX 1520
Columbia, South Carolina 29202-1520

September 28, 1988

Senator Christopher Dodd
Chairman, Subcommittee on Children, Family, Drugs and Alcoholism
Committee on Labor and Human Resources, United States Senate
Hart Senate Office Building, Room 639
Washington, D.C. 20501

Re: Parental Leave

Dear Senator:

Thank you for the opportunity to explain why our agency believes that it is important for adoptive parents to have the time off from work at the time of adoptive placement and for some time thereafter.

Because of the nature of infant adoptions, the adoptive parents face the difficult job of parenting a newborn child who has also been separated from his or her biological parent(s) and needs extra time and attention to successfully bond to the new parents. The bonding and attachment process in adoption has the potential for strengthening the entire family if the parents are able to be with the child in those early, critical weeks. The need for parental leave can be seen more vividly in the adoption of older children and children with special needs or disabilities. The placement process of these children is often lengthy. The parents may need to participate in special medical care, individual psychotherapy or family therapy needed to ensure a successful adoption. These difficult times will provide additional opportunities for bringing the family closer and strengthing the bonding and attachment process.

Your Bill, which is currently being debated on the Senate floor, provides the opportunity for adoptive parents to be with their children during critical periods in the family's development. Adoptive families share this need with biological families. America's families deserve all the support we can give them for they support the future of our great country--our children.

Sincerely,

James L. Solomon, Jr.

James L. Solomon, Jr.
Commissioner

JLSjr:dbh

South Carolina Board of Social Services

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Mississippi Childrens Home
Post Office Box 1078
Jackson, Mississippi 39205

September 26, 1988

The Honorable Christopher Dodd
Chairman
Senate Subcommittee on Children, Family,
Drugs and Alcoholism
Washington, DC 20510

Dear Mr. Chairman:

Mississippi Childrens Home Society and Family Services Association is in support of the Parental Leave Bill. In addition, our agency supports such leave for adoptive parents when a child is placed with them. It is extremely important that this time be available to them and the child in order that they may adjust to each other.

Please contact us if you need further information and support.

Sincerely,

Betti Watters

Betti Watters, M.S.W.
Director of Adoptions

SEP 26 '88 15:24 P02

NATIONAL ADOPTION CENTER

Carolyn L. Johnson
Executive Director

1218 Chestnut Street, Philadelphia, PA 19107 (215) 925-0200

September 26, 1988

Senator Christopher Dodd
Chairman, Sub-committee on
Children, Family, Drugs and
Alcoholism
United States Senate
Washington, D.C. 20510

Dear Senator Dodd:

The National Adoption Center strongly supports the Parental and Medical Leave Act to benefit families with new children either through birth or adoption. The National Adoption Center promotes adoption opportunities for children throughout the United States, especially those with special needs; we know that it is critical for families to have quality time with their children immediately after they are brought into the home and with the assurance that their jobs will be waiting for them when they return to the work world.

While adoption is still associated largely with babies, there are at least 35,000 children in this country who have "special needs" who are waiting for homes. They may be children with physical, emotional, or mental disabilities. Some have mental retardation. Others are older or are brothers and sisters who need homes together.

While all families, even those to which a child has been born, need time to adjust to and to become close to their children, it is particularly important with children who are adopted. In many cases, these children have suffered rejection early in their lives. Often, they have been moved from home to home, and they may need special medical or psychological care. The bonds that they develop with their parents immediately after the adoption make a critical difference in the way they grow up.

A serious barrier to the adoption of these children would be removed if adopting parents knew that they would have a reasonable amount of time during which they could provide them the extraordinary care and attention they need at the outset. Knowing that they could then return to their jobs would eliminate the anxiety about their employment future which often prevents families from considering adoption.

Senator Christopher Dodd
September 26, 1988
Page Two
Re: Parental and Medical Leave Act

Thank you from all of us for continuing to be concerned about family life for children and about the special issues faced by parents and children when families are created through adoption.

Sincerely,

Carolyn L. Johnson

Carolyn L. Johnson

CLJ/jlc

North American Council on Adoptable Children
1821 University Avenue, Suite S-275, St Paul, Minnesota 55104 • 612-644-3036

"Members of the Council are united in the belief that every child has the right to a permanent family. The Council acknowledges that its members may vary in their approach to the community, to the child welfare agencies, and to solving problems in adoption and foster care, and the Council encourages that variety and diversity. The purpose of the Council is to advocate the right of every child to a permanent, continuous and nurturing family, and to press for the legal adoptive placement of any child denied that right."

— Statement of Purpose,
NACAC Bylaws

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Joe Kroll

September 26, 1988

Senator Christopher Dodd
Subcommittee Children, Families, Drugs, and Alcohol
Committee on Labor and Human Resources
Room 639 Hart
United States Senate
Washington, DC 20510

Dear Senator Dodd,

The North American Council on Adoptable Children (NACAC) supports SF 2488 regarding parental leave for parents who have adopted. For all children, whether born to a family or joining one through adoption, the first months are critical in the bonding process. In fact, many adopted children demand more attention in the early months because they come from a background of abuse or neglect by their biological families. To deny these families the same opportunities as families formed biologically is not only unsound public policy and discriminatory, but also serves as another barrier to the adoption of special needs children.

Parental leave is an important option for all parents. We hope NACAC's support for this legislation will be helpful in your efforts on behalf of children--our most important resource.

Sincerely,

Joe

Joe Kroll
Executive Director

CWLA
CHILD WELFARE LEAGUE OF AMERICA, INC.
440 First Street, NW, Suite 310, Washington, DC 20001-2085 • 202/638-2952

September 26, 1988

The Honorable Christopher J. Dodd
Chairman, Subcommittee on Children,
  Family, Drugs, and Alcoholism
324 Hart Senate Office Building
Washington, DC 20510

Dear Senator Dodd:

I am writing on behalf of the Child Welfare League of America to urge you to continue fighting for passage of a bill you introduced, S. 2488, The Parental and Temporary Medical Leave Act of 1988.

CWLA particularly supports the provisions of the bill which would allow parents to take up to 10 weeks of unpaid leave from work within a two year period upon the adoption of a child or assumption of custody of a foster child.

Adoptive and foster families need this leave as much or more as families bound together biologically. Experts agree that the formation of loving bonds between parents and children in the early months of life are crucial to children's development. Adopted children may have already bonded with their biological parents before being given up for adoption. Therefore, it is all the more important that they are allowed time to develop a bond with their new permanent parents.

Children in foster care are not always newborns, but their foster parents need time off regardless to settle the children in the family, to take them to the doctor, to get them situated at school, and to talk with their teachers.

If we want to strengthen America's adoptive and foster families, we need to give the parents involved the time off from work with guaranteed job security for which you bill provides. Please keep up the fight to get S. 2488 passed. We support you wholeheartedly.

Sincerely,

David S. Liederman
Executive Director

NEW YORK OFFICE
67 Irving Place
New York, NY 10003-2299
212/254-7410

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DEPUTY DIRECTOR
Stern

AARP

September 20, 1988

The Honorable Christopher Dodd
U.S. Senate
Washington, DC 20510

Dear Senator Dodd:

The American Association of Retired Persons (AARP) strongly urges you to vote for and support the Parental and Medical Leave Act of 1988 (S. 2488). This bill will soon be voted on by the entire U.S. Senate.

Family care and medical leave are important issues for AARP's members and for all Americans. Job protection for temporary leave to care for ill family members is particularly important for midlife and older women, who not only work in large numbers - over half of AARP's 10 million working members are women - but also are, overwhelmingly, the caregivers for all family members. Frequent job loss resulting from these family caregiving responsibilities has made it difficult for women to vest in pensions and earn adequate Social Security credits. Ultimately, this contributes to the high poverty rate among older women.

The temporary medical leave provision is particularly important. Job loss is devastating to a family's income regardless of whether it results from an employee's illness or an employee's leave to care for an ill family member. It may also be a reflection of age discrimination: although older workers are not sick any more frequently than their younger counterparts, an older worker's illness often serves as a pretext for age discrimination and termination.

The Parental and Medical Leave Act is a significant step towards recognizing the importance of caregivers to families and protecting the jobs of people who want and need to work. This version of S. 2488 currently reflects a compromise designed to respond to the concerns of the business community. AARP urges you to oppose all weakening amendments to the current legislation and to support this bill.

Sincerely,

Horace B. Deets

Horace B. Deets

American Association of Retired Persons 1909 K Street, N.W., Washington, D.C. 20049 (202) 872-4700

Louise D. Crooks *President* Horace B. Deets *Executive Director*

NATIONAL MUL

if we can do anything.

September 19, 1988

Chairman Emeritus

The Honorable Christopher J. Dodd
United States Senate
Washington, D.C. 20510

Dear Senator Dodd:

I write to thank you for cosponsoring the Parental and Medical Leave Act, S.2488 and offer the support of the National Multiple Sclerosis Society in passing the bill this session.

Multiple sclerosis is a disease of the central nervous system which takes an unpredictable relapsing/remitting course. MS is most often diagnosed in people between the ages of 20 and 40 -- during their prime working years.

Remissions can last from several months to many years. During remissions an individual may exhibit few or no disabilities and is capable of performing on the job.

The most important components of the bill for our 400,000 members are the medical leave provisions.

Fear of what the future holds based on the unpredictability of multiple sclerosis can be as disabling as the disease itself. The guarantee of short-term unpaid medical leave will provide the working individual with MS stability and predictability that will help him or her remain a productive member of the workforce.

It is our understanding that S.2488 may be coming up for a vote in the next two weeks. Again, we thank you for cosponsoring the bill and we will be glad to assist you to work for the passage of this important legislation.

Sincerely,

Michael B. Losow

Michael B. Losow
Manager
Government Affairs

MBL/db

American Nurses' Association, Inc.
2420 Pershing Road, Kansas City, Missouri 64108
(816) 474-5720

Margretta M. Styles, Ed.D., R.N., F.A.A.N.
President

Judith A. Ryan, Ph.D., R.N.
Executive Director

Washington Office
1101 14th Street, N.W.
Suite 200
Washington, DC 20005
(202) 789-1800

June 21, 1988

Honorable Christopher J. Dodd
U.S. Senate
324 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Dodd:

On behalf of the American Nurses' Association (ANA), and its 200,000 members, I urge you, as a member of the Senate Committee on Labor and Human Resources, to support S. 2488, Senator Christopher Dodd's (D-CT) revised parental and medical leave bill.

ANA believes this legislation is good for American families, employers, and our economy. We also think that the medical leave makes good health care sense. In the long run, the bill may save health care dollars and increase American competitiveness.

As nurses, we strongly endorse the legislation as both health care practitioners and consumers. We sincerely hope you will support S. 2488 during the Committee mark-up on the 22nd of June.

Sincerely,

Lucille A. Joel

Lucille A. Joel, Ed.D., R.N., F.A.A.N.
President

LAJ/JBP:pj

Senator DODD. I want to thank our second panel: Ms. Mary Roberts, Commissioner of the Oregon Bureau of Labor and Industries, in Portland, Oregon. I am going to ask Dana Friedman, who is here with us once again, Mr. John Motley, Susan Ditto Hamilton who is also a part of this panel, Jeff Carter, of Carter Communications, and Ms. Patricia Ashley to join us.

Without going into lengthy introductions of those people, let me turn to my colleague from Oregon who is very anxious to be here for his Commissioner. We welcome you, by the way.

Senator PACKWOOD. I want to introduce our Labor Commissioner, Mr. Chairman. Those of us in the Legislative Branch have an inclination to think of us and them, us being the elected branch and them being the administrative branch.

Mary Wendy Roberts was one of us before she became one of them. She was elected to the State House of Representatives in 1972, was elected to the State Senate in 1974, and then was elected our Labor Commissioner in 1978. Oregon has relatively few statewide elected officers and Labor Commissioner is one of them. She was reelected in 1982, reelected in 1986, clearly her record has found wide approval with the public.

She has been a leader on parental leave and, as a matter of fact, Mr. Chairman, she has been a leader on a panoply of issues of which you and I share common cause and common concern, and I think I can probably say, without contradiction, that she would be the or one of the three or four leading advocates for all of those issues in the State, and it is the Labor Commissioner's office that has the responsibility of administering Oregon's parental leave policy. So, she has dealt with legislators when it was enacted, and when legislators would say to her that is not what we meant, she could say that was not what you wrote, and she can talk with them on the record, off the record, and then administer the law, so she is as qualified a person to testify on the practical effects I think as anybody we are likely to find.

Senator DODD. Thank you very much, Bob.

Again, Ms. Roberts, Commissioner, we are delighted that you are here this morning. Let me briefly introduce the other panelists who are with you as well.

Dana Friedman is no stranger to this Committee. She has been before us on numerous occasions. She is President of the Families and Work Institute, in New York. Until this week, Ms. Friedman was with the Conference Board, where she created the Work and Family Information Center in 1983. She consults to companies on a variety of work-family issues, including child care, elder care, parental leave, flexible benefits and the like.

Mr. John Motley, who is an old friend I should point out as well, we go back 20, 30 years——

Mr. MOTLEY. Too long.

Senator DODD. Too long a time. I am getting grayer and you are not, John. He is the Director of the Federal Government Relations for the NFIB. The NFIB has again been very active in these issues. They have a membership of over 500,000 small business owners in this country. We have heard from them in the past, and we always welcome their input and counsel on these issues, so we are delighted, John, that you are with us this morning.

Ms. Susan Ditto Hamilton is the owner-operator of Martha McCools Restaurant, in Tucumari, New Mexico. You have come a long way. Ms. Hamilton owns and operates the Martha McCools Restaurant, which is located in the Holiday Inn. She is a member of the NFIB, the Chamber of Commerce, and the Business and Professional Womens Federation. She has 33 employees and she will be telling us about her business at the time of her testimony.

Jeff Carter is the President of Carter Communications, Inc., Liberty Corner, New Jersey. Mr. Carter is President of a marketing communications firm, with 22 employees, located outside Morris, New Jersey, and is a very strong supporter of family leave legislation.

Ms. Patricia Ashley is the Benefits Manager of Methodist Hospital of Indiana. Ms. Ashley is here at the request of my ranking minority member, Senator Coats and is testifying in behalf of the American Society of Personnel Administration and the Concerned Alliance for Responsible Employers. She is the Benefits Manager for the Methodist Hospital, as I indicated earlier.

We are again pleased that all of you are here with us this morning. Our clock is not working, as I am sure you all know, but if you keep it to around 10 minutes apiece, we will get through this quickly and then we will get to some questions.

Commissioner.

STATEMENTS OF MARY WENDY ROBERTS, COMMISSIONER, OREGON BUREAU OF LABOR AND INDUSTRIES, PORTLAND, OR; DANA FRIEDMAN, PRESIDENT, FAMILIES AND WORK INSTITUTE, NEW YORK, NY; PATRICIA ASHLEY, BENEFITS MANAGER, METHODIST HOSPITAL OF INDIANA, IN, ON BEHALF OF AMERICAN SOCIETY FOR PERSONNEL ADMINISTRATION; JEFF CARTER, PRESIDENT, CARTER COMMUNICATIONS, LIBERTY CORNER, NJ; SUSAN DITTO HAMILTON, OWNER/OPERATOR, MARTHA McCOOL'S RESTAURANT, TUCUMCARI, NM; AND JOHN MOTLEY, DIRECTOR, GOVERNMENTAL RELATIONS, NATIONAL FEDERATION OF INDEPENDENT BUSINESS, WASHINGTON, DC

Ms. ROBERTS. Thank you, Chairman Dodd, members of the subcommittee. I appreciate being given this opportunity to testify on the Family and Medical Leave Act of 1989, doing so not only as Labor Commissioner but also as a single parent of an eight-year-old. I had my daughter while I was in State elected office and it is one of my greatest challenges, has been logistics and arranging child care and so forth, so I know of what I speak from a personal standpoint as well.

The Bureau of Labor and Industries, which I administer, is responsible for enforcing the State's civil rights laws and State wage and hour laws, as well as coordinating apprenticeship training in the State of Oregon.

When the 1987 Legislature passed the parental leave law, it assigned the enforcement responsibility to the Bureau. Oregon is one of six States that have enacted parental leave laws, and our statute, which became effective on January 1, 1988, is the most comprehensive.

I provide a detailed summary of the key provisions of the Oregon law to the subcommittee, and my testimony today will include a very brief description of the statute. I want to share with you the findings that we have on how well the Act has been accepted and particularly as it relates to questions that the subcommittee is concerned with.

Oregon's parental leave law passed the 1987 Legislature by a wide margin. It provides up to 12 weeks unpaid leave for both parents following the birth of a baby or the adoption of a youngster under the age of six. Employees do have the option of using any accrued paid leave such as vacation or sick leave during parental leave. Companies with 25 or more full or part-time employees are covered by the statute.

Upon completion of the leave, the employee must be reinstated to their former position or, if that has been eliminated, to an equivalent position, and if that is not available, a suitable position, one with comparable duties and pay.

Is the parental leave law working in Oregon? Yes, it is. The law has been widely accepted, enjoys widespread support, including in the employer community, and many employees have availed themselves of the leave offered by the bill.

I understand one of the major arguments against the passage of the Federal Act is that the mandated costs might force employers to roll back over employee benefits, to offset them. Well, that prediction is just not borne out by the Oregon experience thus far.

At the request of the subcommittee, we conducted an admittedly non-scientific, but we believe very indicative survey of employers. This survey was conducted in January. We had already conducted one in the fall, and the results are consistent with one another.

The key questions included how many employees had actually utilized parental leave, whether or not they had utilized paid accrued leave time, and whether or not the employers planned to reduce or had reduced employee benefits of other types because of the parental leave law.

Virtually every company that we surveyed said passage of the parental leave law had not resulted in a reduction in other employee benefits and, moreover, they did not plan to reduce benefits because of the law. Many personnel manager expressed support for the law, and I am including a couple of letters— I think there are two or three of them—that are endorsement letters for the concept from major firms in Oregon, talking about firms like Techtronix, Fred Meyer, these are successful, progressive firms.

Some expressed the thought that in fact the parental leave law had proved to be more beneficial to the company than any of the problems of adjustment to a new law.

In summary, Mr. Chairman, parental leave laws do work and it works for employers in Oregon and it works for employees, and I hope the Oregon experience will convince Congress to approve a Federal Family and Medical Leave Act. I support the bill before you. Many of the provisions parallel the Oregon statute and address the needs and concerns of the workforce, which is increasingly made up, as you pointed out, more and more of two-parent working families and single parents, particularly women with children.

I am very proud of my State for its foresight in providing parental leave, and I consider both the Oregon law and the Federal Act both pro-family and pro-business. In fact, the direction of this law is congruent with business trends today, and I think that such legislation really encourages employers to move in the direction that they must, to face the challenges presented by the demographic changes and competition.

The fact that six States have a parental leave law and others are considering it and that those who have it are considering expanding it, as well as the action of this panel, I think demonstrate that there is a movement in this direction in the various halls of legislatures and in other political forums, and I think it is appropriate. I think it tests the need to give new parents an opportunity to bond with their children during the first formative years of their life, while guaranteeing their family's financial security. I think this will achieve social goals that we all can subscribe to, as well as economic goals.

Thank you very much, Mr. Chairman. I would be glad to answer any questions that the subcommittee might have.

[The prepared statement of Ms. Roberts follows:]

TESTIMONY OF
MARY WENDY ROBERTS, COMMISSIONER
OREGON BUREAU OF LABOR AND INDUSTRIES
ON THE 1989 PARENTAL AND MEDICAL LEAVE ACT
BEFORE THE U.S. SENATE
COMMITTEE ON LABOR AND HUMAN RESOURCES
SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM
FEBRUARY 2, 1989

THANK YOU, CHAIRMAN DODD. I DEEPLY APPRECIATE THIS OPPORTUNITY TO TESTIFY BEFORE THE SUBCOMMITTEE ON THE PARENTAL AND MEDICAL LEAVE ACT OF 1989 AND TO SHARE OUR EXPERIENCE IN ADMINISTERING OREGON'S PARENTAL LEAVE LAW.

MY NAME IS MARY WENDY ROBERTS. I AM COMMISSIONER OF THE OREGON BUREAU OF LABOR AND INDUSTRIES, ELECTED STATEWIDE. CURRENTLY I AM SERVING MY THIRD FOUR-YEAR TERM.

MY AGENCY ENFORCES THE STATE'S CIVIL RIGHTS AND WAGE AND HOUR LAWS AND ALSO COORDINATES APPRENTICESHIP TRAINING. WHEN THE LEGISLATURE ENACTED OREGON'S PARENTAL LEAVE LAW IT ASSIGNED ENFORCEMENT OF THE STATUTE TO THE BUREAU'S CIVIL RIGHTS DIVISION. IN ADDITION, WE WERE RESPONSIBLE FOR DRAFTING THE ADMINISTRATIVE RULES IMPLEMENTING PARENTAL LEAVE.

BACKGROUND

THE 1987 LEGISLATURE ENACTED THE PARENTAL LEAVE LAW, EFFECTIVE JAN. 1, 1988 (CHAPTER 319, OREGON LAWS 1987). THE LAW PROVIDES UP TO 12 WEEKS UNPAID LEAVE FOLLOWING THE BIRTH OF A CHILD, OR THE ADOPTION OF A YOUNGSTER UNDER THE AGE OF 6 YEARS. BUSINESSES AND GOVERNMENT ENTITIES WITH 25 OR MORE FULLTIME AND PARTTIME EMPLOYEES ARE COVERED BY THE STATUTE. TEMPORARY EMPLOYEES ARE NOT ELIGIBLE FOR THIS LEAVE, UNLESS EMPLOYED SIX MONTHS OR MORE DURING THE YEAR THAT LEAVE IS REQUESTED.

BOTH MOTHERS AND FATHERS WORKING FOR COVERED EMPLOYERS ARE ELIGIBLE FOR PARENTAL LEAVE, BUT NOT CONCURRENTLY. FOR EXAMPLE, THE MOTHER MAY WISH TO TAKE THE FIRST SIX WEEKS OFF AND THE FATHER THE REMAINING SIX WEEKS, OR ANY COMBINATION THEREOF.

UPON COMPLETION OF THE LEAVE, AN EMPLOYEE MUST BE REINSTATED IN HIS OR HER OLD POSITION AT THE SAME WORK SITE, WITHOUT LOSS OF SENIORITY, VACATION, SICK LEAVE OR OTHER ACCRUED BENEFITS, SERVICE CREDITS UNDER A PENSION PLAN OR ANY OTHER COMPANY OR UNION BENEFITS. THESE BENEFITS DO NOT ACCUMULATE DURING THE PERIOD OF UNPAID PARENTAL LEAVE.

IF AN EMPLOYEE'S POSITION HAS BEEN ELIMINATED DUE TO A COMPANY REORGANIZATION OR OTHER CONDITION NOT RELATED TO PARENTAL LEAVE, THAT EMPLOYEE MUST BE OFFERED AN EQUIVALENT POSITION. IF THAT IS NOT AVAILABLE, THEN HE OR SHE MUST BE PUT IN A JOB THAT IS AVAILABLE AND SUITABLE. AN EMPLOYER CANNOT ELIMINATE A POSITION SOLELY BECAUSE THE EMPLOYEE TOOK PARENTAL LEAVE.

IN OREGON, ABOUT 11.5 PERCENT OF THE PRIVATE EMPLOYERS COME UNDER THE PROVISIONS OF THE LAW BECAUSE THEY EMPLOY 25 OR MORE. THAT 11.5 PERCENT ACCOUNTS FOR 70 PERCENT OF THE WORK FORCE IN THE STATE.

I NOTICED IN GENERAL ACCOUNTING OFFICE ANALYSIS OF THE FEDERAL LEGISLATION THAT THE PARENTAL AND MEDICAL LEAVE ACT OF 1989 COVERS ABOUT 12 PERCENT OF THE U.S. FIRMS EMPLOYING 20 OR MORE, BUT ONLY 47 PERCENT OF THE NATION'S EMPLOYEES.

I MENTIONED THE OREGON LAW PROVIDES FOR UPAID LEAVE. HOWEVER, AN EMPLOYEE IS ENTITLED TO USE ANY ACCRUED COMPENSABLE LEAVE FOR PARENTAL LEAVE, FOR EXAMPLE SICK LEAVE OR VACATION TIME. AN EMPLOYER MAY REQUIRE THE EMPLOYEE TO UTILIZE ANY OF HIS OR HER ACCRUED LEAVE UNLESS OTHERWISE PROVIDED BY EMPLOYER POLICY OR A UNION COLLECTIVE BARGAINING AGREEMENT.

IN OTHER WORDS, OUR RULES INTERPRETING THE LAW GIVE THE EMPLOYEE THE ABSOLUTE RIGHT TO THE USE OF ANY ACCRUED PAID LEAVE; AN EMPLOYER, HOWEVER, CANNOT FORCE A WORKER TO USE OTHER LEAVE FOR PARENTAL LEAVE IF COMPANY POLICY OR A UNION COLLECTIVE BARGAINING AGREEMENT BARS SUCH A PRACTICE.

OTHER PROVISIONS OF THE OREGON LAW INCLUDE A 30-DAY NOTICE PROVISION PRIOR TO THE ANTICIPATED DATE OF DELIVERY OR TAKING OF CUSTODY IN AN ADOPTION. EXCEPTIONS ARE IF THE BIRTH IS PREMATURE, THE MOTHER IS INCAPACITATED DUE TO BIRTH, OR PHYSICAL CUSTODY IN AN ADOPTION COMES WITH NO NOTICE.

COMPANIES THAT OFFER A CAFETERIA PLAN WITH A PARENTAL LEAVE COMPONENT EQUAL TO THE OREGON STATUTE ARE EXEMPT FROM THE LAW.

THOSE ARE SOME OF THE HIGHLIGHTS OF THE OREGON LAW, MR. CHAIRMAN. MANY OF THE PROVISIONS PARALLEL THOSE OF THE FEDERAL ACT AS IT RELATES TO PARENTAL LEAVE. THE OREGON STATUTE DOES NOT PROVIDE MEDICAL LEAVE.

SURVEY RESULTS

MR. CHAIRMAN, WHEN YOU WERE CONSIDERING THE PARENTAL AND MEDICAL LEAVE BILL LAST YEAR, YOU AND THE CHAIRMAN OF THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES, MR. KENNEDY, CONTACTED THE BUREAU FOR INFORMATION ON HOW OUR LAW WAS WORKING. SPECIFICALLY YOU ASKED US TO ADDRESS THE ISSUE OF WHETHER MANDATED PARENTAL LEAVE RESULTED IN EMPLOYERS REDUCING OR LIMITING OTHER EMPLOYEE BENEFITS.

WE WERE PLEASED TO RESPOND. WE COMPILED A LIST OF EMPLOYEES IN OREGON AND POSED THE QUESTION, CONCENTRATING IN THE PORTLAND METROPOLITAN AREA BUT ALSO INCLUDING BUSINESSES IN EUGENE, THE STATE'S SECOND MOST POPULOUS CITY; SALEM, THE STATE CAPITAL, AND EASTERN OREGON WHERE THE POPULATION IS SMALL.

WE WERE ABLE TO REACH COMPANIES EMPLOYING AN ESTIMATED 34,500. IN ADDITION WE SURVEYED SIX INSURANCE BQRKERAGES THAT SPECIALIZE IN EMPLOYEE BENEFIT PACKAGES.

TO PREPARE FOR MY TESTIMONY TODAY, BUREAU STAFF TALKED TO ANOTHER 42 COMPANIES (PERSONNEL MANAGERS) EMPLOYING BETWEEN 60,000 AND 70,000 IN OREGON. A NOTE OF CAUTION, HOWEVER. OUR SURVEYS ARE NOT STATISTICALLY VALID AS WE DID NOT UTILIZE A RANDOM SELECTION PROCESS, AND ARE WEIGHTED TO LARGER COMPANIES BECAUSE TIME CONSTRAINTS PREVENTED US FROM REACHING MORE BUSINESSES ON THE CUTTING EDGE OF THE 25 EMPLOYEE THRESHHOLD.

(YOU MAY BE AWARE THAT THE FORD FOUNDATION IS FUNDING A STUDY OF PARENTAL LEAVE LAWS IN OREGON, RHODE ISLAND, WISCONSIN AND MINNESOTA. THE STUDY WILL INCLUDE A SURVEY TO DETERMINE THE IMPACT OF THE STATE LAWS ON BOTH EMPLOYERS AND NEW PARENTS, AND SHOULD PROVIDE MUCH NEEDED DATA THAT WE CURRENTLY LACK.)

THE RESULTS WERE HEARTENING. NOT ONE COMPANY THAT WE SURVEYED HAD CONCRETE PLANS TO REDUCE OTHER BENEFITS BECAUSE OF PARENTAL LEAVE, INCLUDING SMALLER COMPANIES RANGING FROM 35 TO 114 EMPLOYEES. A FEW SAI THEY "MIGHT" CONSIDER OFFSETS IF COSTS DICTATE. ANY REDUCTIONS IN BENEFITS CURRENTLY UNDER WAY ARE MOTIVATED BY RISING COSTS, PRIMARILY FO HEALTH BENEFITS, AND NOT IMPOSITION OF A PARENTAL LEAVE LAW.

OUR SURVEY FOUND THAT MANY COMPANIES HAVE GENEROUS LEAVE POLICIES IN PLACE FOR NEW MOTHERS (BUT NOT FATHERS) OVER AND ABOVE THE NORMAL MEDICAL DISABILITY LEAVE FOR PREGNANCY. FOR EXAMPLE, NORDSTROM'S DEPARTMENT STORES WITH 1,800 EMPLOYEES IN OREGON GRANTS SIX WEEKS PAID MATERNAL LEAVE. THAT WILL BE EXTENDED TO 12 WEEKS ON MARCH 1. A PORTLAND ARCHITECTURAL FIRM, ZIMMER GUNSUL FRASCA, PROVIDES UP TO SIX MONTHS UNPAID PERSONAL LEAVE. STANDARD INSURANCE OF PORTLAND, WITH 1,000 EMPLOYEES, ALSO GRANTS 6 MONTHS MATERNAL LEAVE.

US WEST COMMUNICATIONS' OREGON DIVISION PROVIDES SIX MONTHS PARENTAL LEAVE FOR ALL EMPLOYEES FOLLOWING BIRTH OF A CHILD. WITH THE PASSAGE OF THE STATE LAW, IT PLANS TO EXTEND THAT TO ADOPTIVE PARENTS. IN ADDITION, US WEST IS CONSIDERING BRINGING THE 14 STATES IN THE WESTERN REGION UNDER THE SAME LEAVE PROVISIONS. ESCO, A PORTLAND-BASED ELECTRONICS FIRM WHICH EMPLOYEES 900 IN OREGON AND 600 IN OTHER STATES PLANS TO EXTEND PARENTAL LEAVE BENEFITS TO ALL EMPLOYEES.

IN SHORT, VIRTUALLY EVERY COMPANY WE SURVEYED SAID PASSAGE OF THE PARENTAL LEAVE LAW WILL NOT RESULT IN A REDUCTION IN OTHER BENEFITS. MANY PERSONNEL MANAGERS EXPRESSED SUPPORT FOR THE LAW, AND I AM INCLUDING LETTERS OF ENDORSEMENT FROM SEVERAL MAJOR COMPANIES AS PART OF THE RECORD.

THE EXTENT TO WHICH EMPLOYEES AVAILED THEMSELVES OF PARENTAL LEAVE VARIED WIDELY. SOME COMPANIES SAID FEW OF THEIR PERSONNEL HAD SOUGHT PARENTAL LEAVE. THEY TENDED TO HAVE GENEROUS LEAVE POLICIES ALREADY IN PLACE FOR FEMALE EMPLOYEES. OTHERS SAID USAGE WAS FAIRLY HIGH THE FIRST YEAR, FOR EXAMPLE, GOOD SAMARITAN HOSPITAL WITH JUST OVER 3,000 EMPLOYEES HAD BETWEEN 150 AND 200 EMPLOYEES GO ON PARENTAL LEAVE. (THE HOSPITAL OFFERS AND EMPLOYEE-PAID SHORT TERM DISABILITY PLAN BUT OTHERWISE HAS PAID LEAVE LIMITED TO THE TIME THE MOTHER IS MEDICALLY DISABLED.) FEW MEN HAVE ELECTED TO USE THE LEAVE TIME, ACCORDING TO OUR SURVEY. HOWEVER, THE PERSONNEL MANAGER FOR PRECISION CASTPARTS SAID HE WAS "SURPRISED" AT HOW MANY OF HIS FIRM'S MALE EMPLOYEES HAD TAKEN PARENTAL LEAVE. THE PORTLAND MACHINIST EMPLOYS 3,100.

MOST EMPLOYEES ELECTED TO USE ACCRUED LEAVE TIME SUCH AS VACATION OR SICK LEAVE WHEN TAKING PARENTAL LEAVE. AGAIN, THESE TENDED TO WORK FOR FIRMS WITH LIMITED OR UNPAID PREGNANCY LEAVE POLICIES.

IN SUMMARY, MR. CHAIRMAN, OREGON'S PARENTAL LEAVE LAW HAS NOT RESULTED IN OTHER BENEFITS BEING REDUCED. TO DATE THE BUREAU HAS RECEIVED ONLY 20 COMPLAINTS INVOLVING PARENTAL LEAVE, THE MAJORITY INVOLVING FAILURE OF MANAGEMENT TO ALLOW THE USE OF SICK LEAVE DURING PARENTAL LEAVE. ONE CASE, INVOLVING A MALE EMPLOYEE OF A LARGE UTILITY, WAS THE SUBJECT OF A CONTESTED HEARING. IN MY FINAL ORDER I FOUND FOR THE EMPLOYEE AND DIRECTED THE UTILITY PAY THE VALUE OF THE NINE WEEKS AND TWO DAYS OF SICK LEAVE REQUESTED THAT HE HAD REQUESTED PLUS AN ADDITIONAL $2,000 FOR MENTAL ANGUISH AND DISTRESS.

CLOSE

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, I HOPE THE OREGON EXPERIENCE WILL CONVINCE CONGRESS TO APPROVE A FEDERAL FAMILY AND MEDICAL LEAVE ACT. I SUPPORT THE BILL BEFORE YOU WITHOUT RESERVATION. MANY OF THE PROVISIONS PARALLEL THE OREGON STATUTE AND ADDRESS THE NEEDS AND CONCERNS OF A WORK FORCE THAT INCLUDES MORE AND MORE WOMEN AND TWO-EARNER HOUSEHOLDS.

I AM VERY PROUD OF MY STATE FOR ITS FORESIGHT IN PROVIDING PARENTAL LEAVE. I CONSIDER BOTH THE OREGON LAW AND THE FEDERAL ACT TO BE PRO-BUSINESS AND PRO-FAMILY, DESPITE SOME OF THE TESTIMONY YOU HAVE HEARD FROM VARIOUS BUSINESS GROUPS AND WHAT WE HEARD WHEN OUR BILL WAS BEFORE THE OREGON LEGISLATURE.

OUR WORK FORCE HAS CHANGED DRAMATICALLY FROM THE DAYS WHEN THE TRADITIONAL BREADWINNER WAS THE WHITE, MALE HEAD OF HOUSEHOLD. THE FASTEST GROWING SEGMENT OF THE LABOR FORCE IS WOMEN OF CHILD BEARING AGE. BETWEEN NOW AND THE YEAR 2000 WOMEN, MINORITIES AND IMMIGRANTS WILL CONSTITUTE 85 PERCENT OF THE NEW ENTRANTS INTO THE LABOR MARKET. THE MAJORITY OF TWO-PARENT HOUSEHOLDS INCLUDE DUAL WAGE EARNERS, AND THE REASON IS SIMPLE: WOMEN ARE IN THE WORKFORCE OUT OF ECONOMIC NECESSITY. TWO OUT OF THREE WOMEN WORKING OUTSIDE THE HOME TODAY ARE EITHER THE SOLE PROVIDERS FOR THEIR CHILDREN, OR HAVE HUSBANDS WHO EARN LESS THAN $15,000 A YEAR.

PARENTAL AND MEDICAL LEAVE IS A RECOGNITION OF THIS STARTLING SHIFT IN DEMOGRAPHICS. THE FACT THAT SIX STATES HAVE A PARENTAL LEAVE LAW, THAT 16 OTHERS ARE CONSIDERING IT, AND THAT THIS PANEL IS DELIBERATING ON A FEDERAL PARENTAL/MEDICAL LEAVE ACT ATTESTS TO THE NEED TO GIVE NEW PARENTS AN OPPORTUNITY TO BOND WITH THEIR CHILDREN DURING THE FORMATIVE FIRST WEEKS OF THEIR LIVES, AT THE SAME TIME GUARANTEEING THAT THEY WILL HAVE THEIR JOBS BACK FOLLOWING EXPIRATION OF THE LEAVE.

THANK YOU VERY MUCH, MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

U S WEST Communications
421 Southwest Oak Street
Suite 8 South 1
Portland, Oregon 97204
503 242 5234

Marsha B. Congdon
Oregon Vice President
and Chief Executive Officer

US WEST
COMMUNICATIONS ®

RECEIVED

JAN 30 1989

Mary Wendy Roberts
Labor Commissioner

January 24, 1989

Ms. Mary Wendy Roberts
Commissioner, Labor and Industries
1400 SW 5th Avenue
Portland, Oregon 97201

Dear Mary Wendy:

I am reminded of our recent conversation regarding Oregon's Parental Leave law and wish to reiterate that U S WEST Communications (USWC) fully endorses the aim and direction of such efforts.

We at USWC have long recognized our employee body as our most valuable resource. Policies which allow employees time off to pursue personal interests not only contribute to the retention of a highly trained, motivated workforce, but also help USWC meet its financial obligations as well.

I am pleased to say that our Oregon employees have a variety of "Leave of Absence" plans from which to select. All of these plans, including that for the care of the newborn, contain provisions which exceed those required by law.

If you have questions or I can be of any assistance, please give me a call.

Sincerely,

Marsha

Tektronix
COMMITTED TO EXCELLENCE

Tektronix, Inc.
Tektronix Industrial Park
P.O. Box 500
Beaverton, Oregon 97077

Phone: (503) 627-7111
TWX: 910-467-8708
Telex: 151754

January 31, 1989

The Honorable Mary Wendy Roberts
Commissioner
Bureau of Labor and Industries
1400 SW 5th Avenue, 4th floor
Portland, Oregon 97201

Dear Commissioner Roberts:

Thank you for the opportunity to share with you our current perspective on the issue of parental and family leave.

As you know, Tektronix is a Fortune 500 corporation with slightly more than 15,000 employes worldwide. We manufacture sophisticated electronic test and measurement equipment, advanced computer graphics terminals and printers, and television production equipment. Our headquarters and principal manufacturing operations are in Oregon, but we also employ significant numbers of people typically involved in sales and distribution in many states around the nation -- and the world. **Fortune** magazine lists Tektronix as the 50th largest exporter in the United States -- and the sixth largest by percentage when you compare exports to total sales.

Tektronix was founded in 1946 and has maintained a strong commitment to the people who make our corporation what it is. Therefore, Tektronix is keenly aware of the changing character of the American workforce, with its complex and intensifying demands on people at work and in the home.

Because the success of our company rests on the innovation and productivity of our people, we are eager to assist our workers in finding ways to balance these demands in their life. To a considerable degree, how well we respond corporately to these changing demands on our workers will determine our success in retaining and attracting the supply of skilled workers we need to compete in the global economy. In short, we have ample reason, without further government mandates, to encourage us to recognize and respond to the needs of working women and single parents, as well as to aging workers and existing or potential workers who need additional skills in order to meet the demands of new technologies.

Tektronix also retains the view that business and government should to the greatest extent possible work as partners, especially when grappling with immense problems that affect each individual person differently and, therefore, require individualized responses. The problems facing the American workforce today are ones that don't conform to easy solutions. The solutions we need to develop will demand extensive private-public sector cooperation -- and they will require both business and governmental leaders to stretch their thinking beyond the limits of past experience. We must aspire less to develop new programs and aspire more to create an atmosphere that yields new opportunities. In short, we must find flexible ways to address the wide array of needs in today's workforce.

At Tektronix, we have striven through our package of benefits and our personnel policies to provide our workers with a framework in which they can balance the demands of work and family, and in which they can secure the means to renew their skills and enhance their own employability.

Some of the opportunities we have provided include:

- Part-time and job-sharing work alternatives;
- Flexible work schedules;
- Work at home;
- Dependent care reimbursement accounts through our corporate-wide cafeteria benefits plan;
- Personal leave of absence for up to one year;
- Educational leave of absence with job assurance upon return;
- 100 per cent tuition reimbursement for work related and degree-oriented educational courses, and 50 per cent reimbursement for courses not directly job-related, but which are related to Tektronix businesses;
- Parental leave of absence for both parents of up 12 weeks (in addition to the mother's period of disability) following the birth or adoption of a child of any age, with job assurance upon their return to work;

- On-site summer child care;

- Individual employe counseling regarding personal and family life problems through on-site and other referral employe assistance resource programs; and

- Use of an employe's accrued, paid sick time to care for a sick child under the age of 18.

Tektronix, of course, also offers high-quality health care insurance options, an employer-funded retirement program and a voluntary 401(k) deferred pay plan.

Recently, Tektronix took another step forward in our attempt to confront the needs of our workers by initiating a new Flexible Time Off (FTO) program, which will be implemented this summer. The FTO program will replace our existing sick leave and vacation time-off policies by granting our workers greater flexibility in the use of paid time away from the workplace.

Under our FTO program, employes accrue FTO hours throughout the calendar year. These hours can be used for any personal reason. Also under FTO, each employe will have a "health bank" of saved hours which can be used to take paid time off for a personal or family health-related purpose, including care of an ill spouse, child, parent or other family member, medical or dental appointments, parental leaves for the birth or adoption of a child, the death of a family member, or to purchase health benefits after retirement.

We were thinking about a program such as FTO when we approached lawmakers during the 1987 Oregon Legislature concerning an amendment, which was enacted, that exempts companies if they have a parental leave benefit as part of a non-discriminatory cafeteria plan equivalent to the leave granted under the state parental leave statute. Our objective was to put into the law an incentive to encourage corporations to experiment and to innovate in ways to give workers choices -- and, especially for lower-paid workers, choices of which they could afford to take advantage.

We continue to believe this type of incentive is important. Undoubtedly it can be perfected. But we believe it should be retained and built upon. If we don't encourage innovation, we will wind up with lowest common-denominator policies -- policies which frankly will help some, but be of little use to others, even though they also will bear their intrinsic costs.

Our workers, like most workers, prefer to make choices that conform their benefits to their needs. Employers should be given reasonable flexibility and unequivocal encouragement to provide equitable choices to their workers. Not every employer will respond, so some basic requirements may be needed. [As you recall, Tektronix supported Oregon's parental leave legislation.] But the law can permit and even encourage employers to do more than is required.

For Tektronix, it is important to us to have a benefit package and personnel policies that apply evenly to all of our employes, just as it is vital that our benefits and personnel policies treat lower-paid workers as fairly as more highly compensated workers. Policies such as FTO meet this test, and give workers regardless of their income an opportunity to utilize a benefit such as parental leave. We think that is good for our workers and good for Tektronix. We respectfully submit it also represents good public policy and should be endorsed and encouraged in state and federal law.

Thank you for requesting our views and for including them along with your testimony on proposed federal parental and family leave legislation.

Sincerely,

Linda Workman

LINDA WORKMAN
Corporate Personnel Policy &
Technical Support Manager

Senator **Dodd**. Thank you very much, Commissioner. It is particularly enjoyable to have you here again. To have someone who can speak about an actual plan and the actual effects of what this is, is going to be extremely beneficial to the committee, so we appreciate your coming this great distance across the country to be with us today.

Dana, once again we welcome you to the committee.

Ms. **Friedman**. Thank you for the opportunity to participate in an important debate whose outcome will affect millions of families.

I would like to share with you today what I understand to be the corporate perspective on aspects of the Family and Medical Leave Act. I draw my views primarily from the experiences of large corporations, having consulted to them or analyzed their policies and research.

However, I have begun to hear more and more from small and mid-size companies who are also affected by the volatile and changing business climate. The Small Business Administration recently conducted a study of 24 firms with fewer than 100 employees that had some form of child care support. Six of these firms sponsored child care centers.

The common features among these small companies that accounted for their foray into child care was that they were in tight labor markets, had progressive managements and were profitable. If I were to profile the large corporations involved with child care, I would say exactly the same thing. It seems that where there is a will or perhaps the foresight, there is a way.

Indeed, a growing number of firms are abandoning old practices, revising existing ones and developing a whole new set of responses that can accommodate a growing diversity among their workers and future workers. The primary motivation for their response is economic. According to several management gurus, respect for human capital is the prescribed anecdote to plunging productivity. A more people-oriented corporate culture also may be a way to attract talented people in a time of labor shortages. Not only is there a shrinking labor pool, but it is becoming increasingly diverse, with more women and minorities than ever before.

This new diversity challenges company recruitment efforts, benefit plans, productivity incentives and work schedules that were designed primarily for white male breadwinners. It is becoming increasingly obvious that the grease which kept the workforce running smoothly in the industrial era may not keep the squeaks out of the human machinery of the post-industrial age.

Management may find itself pushing the same old buttons and no longer getting the desired responses. Without accommodation to family needs, some companies may lose their ability to attract and retain productive workers.

But corporate decision making is influenced by more than economics. Attitudes play a very important role. Economics and attitudes create two different levels of reaction to family leave from the corporate community. There is a reaction to mandates and there is a reaction to leave. Very simply, companies do not like mandates. I do not think anybody likes being told what to do, and so it would seem in the relationship between business and government.

Will Rogers once said that the business of government is to keep government out of business, that is, unless business needs government aid. Perhaps we should consider the government is aiding business by protecting them against the negative effects of unmet family needs that they may be unaware of. Business, of course, is also concerned that mandated leave would set a dangerous precedent for other mandated benefits such as health care, which they believe is far more costly, and let's look at the issue of costs.

The new costs to companies as a result of this Act may not be as onerous as some predict. First, many companies already offer some protective leave, but the response is spotty, not only among companies but, more importantly, among supervisors in companies with only ad hoc policies.

The National Council of Jewish Women's study found that smaller employers, even those who would be exempted under this Act, are just as likely as larger employers to offer some parental leave following medical leave for maternity. Moreover, small employers are significantly more likely to arrange reduced work schedules for women returning from childbirth, which seems to be the preferred form of parental leave for women who cannot afford to forego earnings entirely.

This legislation would seem to create a level playing field for business and provide a measure of job security for all workers.

Another aspect of cost is related to cost benefit. A growing number of companies have begun to realize that their human resource programs do not get entered into the expense side of the ledger only. There are indeed paybacks for investing in their workers.

In this study by the National Council of Jewish Women, a highly accommodating company was defined as one that had at least six of the following eight features of maternity leave policy: Job protected leave with some salary replacement, time off for doctors, benefits continued during leave, parenting leave beyond disability, flexible hours, help in finding or paying for child care, and sensitive supervisors.

The women working for these highly accommodating companies were more satisfied with their jobs, took fewer sick days, were less likely to be ill on the job, worked more on their own hours, were more likely to work during their third trimester, and, most importantly, were less likely to quit.

Similarly, companies are finding that an investment in prenatal care will yield positive returns. The Sunbeam Corporation, among others, mandates prenatal care for their employees as a way to reduce the number of premature births among employees. As a result of this policy, the company reduced the average cost of maternity from $27,000, about, in 1984 to $3,000 in 1986. Similar results are emerging from research on other family supported practices, such as flex time, employer assistance programs, and child care centers. There are also the long-term savings accrued from leave to care for newborns by strengthening early bonding and investment in the next generation.

The final aspect of costs I want to discuss is where the companies will cut other benefits if they are mandated to provide family and medical leave. Yes, companies are very concerned about rising benefit costs. Health care inflation has led to an obsession about cost containment. Labor shortages may also lead to wage inflation that will increase labor costs.

But in a study of 71 companies for Fortune Magazine, to be published later this year, 61 percent of managers reported that their companies were undergoing a labor shortage, yet 86 percent of them said that they expected their company to provide more family supportive policies in the next five years.

Now, the other issue that affects both the economics and the attitudes is equity. There are two dimensions to the equity debate. The first is that by providing leave to people with families, those without will demand a benefit of equal value, will feel less motivated because of the perceived inequity.

Well, first, there are many inequities that are already existing in corporations. There are cafeterias when some people bring their lunch, parking lots when some people take public transportation. Companies are leaning that fair does not mean the same. There is such a diversity of needs among their workers, a set of needs that are different from the typical worker of the past, that they had better be flexible in their approach to human resources.

Furthermore, there are very few people who do not have any family members who might potentially need care. Co-workers frequently report that family supportive policies enable them to work more productively, because of the positive effects of support provided to those who have family needs. They are also proud to be working for the kind of company that would make this investment in their workers.

The other aspect of equity is whether elder parent spousal care should be part of the bill. I find this debate to be a prime example of a misunderstanding that government has about the way companies think. The resistance to broadening the bill is that it would include a larger number of people who might take leave, thus increasing employer resistance.

However, while companies have repeatedly told me that they really do not want mandates, they admit that if there were mandated leave, they would much rather have it as a broad policy that would reduce potential equity problems. This has been the case for 43 of the 50 States who offer leave for all family members for State employees. This is a study that is being conducted under way now.

Their concern about equity is also evident in their reaction to news that this measure, when not passed at the Federal level, it would happen State by State. Large companies operating in many States would far prefer to have one Federal policy.

Finally, the inclusion of elder care and spousal care is of far more interest to senior decisionmakers who are much more likely to have parents than preschoolers. Top management support would be more favorably disposed to a bill that included their needs.

The corporate effort to reduce inequities in benefits is flexible benefits or cafeteria plans. Now, there has been some discussion about the status of companies that offer parental or family leave in a flexible benefits plan. I will not comment on whether these firms should be exempted or not from this Act, but I would like to say that I know of no companies who offer leave as part of their flexible benefits, and I do not know that there ever could be, and let me explain briefly why.

The provision of flexible benefits that would come closest to a leave option is vacation time. Hewitt Associates estimates that in order for an employee to buy one week of vacation through a flexible plan, they would give up 2 percent of their salary. An employee who wanted to take 10 weeks of family leave, as allowed under the Act, would need to reduce their salary by 20 percent. This would be the equivalent amount of salary foregone in an unpaid leave situation.

However, in an included flexible benefit plan, the employee's social security account is reduced and they are also not able to take advantage of other policies in a flexible plan.

There is another provision of flexible benefits that makes inclusion of leave difficult. Each employee must select in the beginning of the plan how much money they want to put aside for the benefits selected. If they do not use that amount, the money is forfeited. There are life events that allow employees to change their selection, such a divorce or death. All of these allowed life events in the law currently are prospective, that is, the change accrues for the benefits they have yet to receive. If an employee is divorced, dependent care is no longer needed, but they had to use it up until that point.

If, on the other hand, a pregnant employee has a miscarriage and no need to take leave, the employee would still have had to foregone the income that was reduced from her salary before the miscarriage.

I hope these comments are helpful in your deliberations. I urge you to find common ground on a policy that would allow people to attend to the health of the next generation and of those who once cared for them, while contributing to the economic health of this Nation.

Thank you.

Senator DODD. Thank you, Dana, very much.

Ms. Ashley?

Ms. ASHLEY. Good morning. My name is Patty Ashley. I am the Employee Benefits Manager for Methodist Hospital, in Indiana, located in Indianapolis. I have worked in the human resource field for almost 16 years. I am here today representing the American Society for Personnel Administration.

ASPA is the world's largest human resource management association. It has more than 41,000 individual members, which come from a cross-section of American business, from large corporations to smaller family operations. ASPA is also a member of the Concerned Alliance of Responsible Employers, a coalition representing over one million employers nationwide.

In addition to encouraging employers to offer competitive benefits, ASPA is working hard to preserve the voluntary benefits system that allows employers and employees flexibility to determine which benefits best meet mutual needs.

As this subcommittee knows, the American workforce has undergone and will continue to undergo dramatic changes. By the year 2000, employers will suffer from a general worker shortage brought on in part by lower birthrates in the 1970's. Employers will have to engage in fierce competition to attract and retain workers, most of whom are projected to be women.

Hospitals are already experiencing the unpleasant results of labor market shortages. For hospitals, the situation will simply grow worse. Many employers are already addressing current labor shortage issues as well as preparing for future shortages by developing rich and varied benefits packages.

Some packages offer total flexibility in choice to employees. Others focus on offering flexible working hours. Others focus on job sharing or other similar situations. These kinds of things are occurring in response to labor market changes, not Federal mandates. In fact, according to a 1988 ASPA survey, maternity leave is offered by most companies and in excess of 8 weeks.

Most respondents to that survey did not feel that a Federal mandate or government control was the issue. I have attached the executive summary for that survey and I would like for that to be entered into the record.

I am particularly concerned today about the impact of federally mandated parental leave legislation would have on the health care industry. I believe it has the potential to disrupt the health care industry and jeopardize patient care. I have worked in health care for more than ten years and, while I have worked there, I have gotten to know administrators, doctors, professionals, rank and file employees. People who work in health care above all understand the importance of attending to the needs of the sick, the injured, the dying. They would be the last people to argue that providing time off for caring for one's own family is wrong. Likewise, the human resource professionals I represent today recognize the value in allowing time off to care for family members.

We are, however, on the front lines of advocating for flexibility and encouraging employers to offer such benefits where it is financially feasible, and where it meets the mutual needs of employee and employer.

My hospital and many others across the country are feeling the effects of the nursing shortage crisis right now. There simply are not enough nurses to meet the demand in hospital employment. My hospital is actively recruiting right now for 150 registered nurses. That is about 12 percent of the total RN workforce we should have if we were fully staffed. We, like other hospitals, have been forced to close beds because there simply are not enough skilled personnel to take care of patients. Other hospitals may spread staff so thinly in an attempt to keep beds open that the quantity of nursing care is reduced to almost nothing. The hospital demand for RN's is likely to continue, because of the government's position of reimbursing hospitals according to DRG's, diagnosis related groups. As a result of this payment system, patients are discharged from the hospital earlier. Patients who remain in the hospital are usually more ill, they require care of a much more sophisticated and labor-intensive nature.

The care required in many instances can only be given by a registered nurse. As a result, the hospitals are already stressed from a staffing prospective. We cannot fill the jobs we have open now. If we are mandated to give certain time off, we will have more vacant jobs. If hospitals cannot hire the nurses they need to begin with, they will not be able to hire temporary replacements, either. If there are not enough nurses to care for the patients, it is the patient, we the public who are ultimately going to suffer.

Proponents of this legislation assert that it is a no-cost or a minimal cost benefit. I would ask you to consider the tremendous amount of overtime that many hospitals, including mine, pay now to current employees to plug shortages, to plug those staffing gaps.

I would ask you to consider how tired those people are who are working all of that overtime. I would ask you to consider the impact on the family life and the family welfare of those employees who are working those extended hours, and I would certainly ask you to consider the extensive cost and time involved in training replacement employees, training employees at all.

As an example, in my hospital nursing vacancies remain open on the average for two to three months. Some jobs go unfilled for as long as three years and even longer. Given the lead time that we need to recruit a nurse, how could we ever prepare for an absence, even if we had a so-called reasonable notice of, let us say, two weeks. There is not enough time for us to prepare.

Even if my employer could find a replacement nurse, we would be saddled with tremendous costs. It costs us $28,000 to train one nurse to work in an operating room. It costs $18,000 to train a nurse to work in a critical care area. That would be someone who would take care of you in an intensive care unit or the emergency room. Someone who provides more general care on a medical or a surgical floor costs $13,000 to train.

If only 10 percent of our nursing staff, 15 OR nurses, 25 critical care nurses, 65 medical or surgical nurses were off on leave and we had to replace them, we would incur training costs alone of $1.625 million. I, unfortunately, cannot estimate what the cost would be if we were to lose a human life in the gap between trying to fill the job while someone was on parental leave.

I think the situation, Senator, would be even more critical in smaller hospitals in rural areas. They are working at a competitive disadvantage. If they were required to offer mandated leave benefits, they would be in a real pickle when it comes to providing patient care. They have fewer staff to absorb additional working during an absence, and I can assure you that a hospital administrator in any community has few good choices when the only registered nurse on the evening or the night shift takes leave or does not show up because of a family crisis.

While there may be other staff, they may not be qualified, either by law or by education to care for the patients who are on that floor. If this leave is mandated, I believe that employers will be forced to increase their benefits budgets to offset the costs. This may result in lesser benefits that do not satisfy or meet employee needs.

My hospital, as an example, provides numerous other benefits, quite generous benefits to employees and we do so without governmental mandates. We offer employee assistance programs, tuition assistance, cash recruitment assistance, a whole host of insured benefits and paid time off benefits. We are currently in the process of exploring the employee interests and the financial viability of on-site child care.

If we were mandated to provide a specific benefit, it is highly probable that the mix of our benefits offerings would have to change as we would adjust our budget to comply. As I am the Benefits Manager for the hospital and responsible for costing out such benefit programs, I feel that I can safely say we would be in a position to make some significant adjustments.

The unfortunate results would be that employees would be left without benefits that they previously enjoyed and they are now replaced by benefits they had no input in requesting. I fear that employees would really be hurt by such legislation, because they do not have the choice and flexibility any longer.

Thank you for allowing me to make my comments. I would be happy to answer any questions.

[The statement of Ms. Ashley follows:]

aspa
Managing Human Resources

TESTIMONY OF

PATRICIA ASHLEY

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ON BEHALF OF

THE AMERICAN SOCIETY FOR PERSONNEL ADMINISTRATION

BEFORE THE SUBCOMMITTEE ON

CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

U.S. SENATE

FEBRUARY 2, 1989

American Society For Personnel Administration
National Headquarters • 606 N. Washington Street • Alexandria, Virginia 22314 • Phone: 703/548-3440

Mr. Chairman and members of the subcommittee, my name is Patricia Ashley. I am benefits manager for Methodist Hospital in Indianapolis, Indiana. I have been employed in the human resource profession for over 15 years. I am here representing the American Society for Personnel Administration (ASPA). ASPA is the world's largest professional society devoted exclusively to excellence in human resource management. The Society's membership has grown to over 41,500 since its founding in 1948. ASPA represents individuals employed by companies which collectively employ more than 41 million people and incudes managers from a cross-section of American business -- from large corporations to smaller family operations. ASPA is also a member of the Concerned Alliance of Responsible Employers (CARE), a coalition representing over one million employers nationwide.

On the front lines as practitioners, innovators, managers and decision-makers, human resource professionals are challenged to contribute both to a company's productivity and to its profitability. Human resource managers are in a unique position to provide practical guidance on the issue of work and family conflicts. For instance, ASPA has recently helped the Department of Labor to pilot test its new clearinghouse of information on work and family issues. ASPA encourages employers to offer competitive benefits packages. We are seeking to preserve the voluntary benefit system that allows employees and employers to determine together which benefits best meet mutual needs.

As this Committee knows, the American workforce has undergone and will continue to undergo dramatic changes. More women are working than ever before. Between now and the year 2000, only one in 7 -- or 15% -- of the new entrants into the labor force will be native white males. Sixty-six percent will be women. At the same time, the baby boom will become the baby bust, and the lower birthrate of the 1970's will result in fewer available employees, with intense competition among employers to attract and retain workers -- most of whom will be women.

Employers are preparing for the new workforce with richer and more varied benefit packages than ever before, not as a result of federal mandates, but rather in response to these workforce changes. Flex-time schedules and job sharing allow employees to balance the demands of work and family life. Cafeteria style benefit plans are becoming the wave of the future. These plans allow employees to select benefits which best suit their individual family needs from a whole array of options. According to a 1988 survey of the American Society for Personnel Administration, unpaid maternity leave is offered by most companies for more than eight weeks. However, most respondents did not support government control over the issue. I have attached the executive summary for that survey to be included in the record.

The Congress is now considering federally mandated family and medical leave which would require employers to provide disability leave and family leave for the birth, adoption or serious illness of a child or to care for a dependent parent. I believe that a federal mandate requiring employers to provide such leave is not the answer.

I am particularly concerned with the impact such legislation would have on the health care industry. I believe it has the potential to disrupt the health care industry and jeopardize patient care.

As you know, charitable values are the basis for the services a hospital provides. Hospital employers above all understand the importance of attending to the needs of the sick, the injured, the dying. They would be the last to argue that providing time off for caring for one's own family is wrong. The human resource professionals I represent also recognize the value in allowing time off to care for family members. We are on the front lines of encouraging employers to offer such benefits, where it is financially viable, and where it is consistent with the ability of an employer to do so.

As a business person in a hospital, I am concerned that federally mandated benefits like the time off required by the legislation being discussed today will have a devastating effect on our ability to provide adequate patient care. I work for a large hospital which must face patient care issues on a daily basis. We can't be in a situation of not knowing if or when an employee will show up on any given day. Most hospitals are currently grappling with the immediate crisis of the nursing shortage. There are simply not enough registered nurses in the labor market to meet the pressing and steadily increasing demand for them in hospital employment.

The workforce shortage has forced some hospitals to close beds because they lack skilled personnel to properly care for patients. Closed beds mean potentially fractured relationships with physicians who are unable to admit patients and ultimately less revenue for the hospital. Other hospitals spread staff so thinly that the nursing care is reduced to almost nothing.

The hospital demand for registered nurses is likely to continue because of the government's position that it will only reimburse hospitals according to DRG's (Diagnosis Related Groups). As a result of this payment system, patients are discharged from the hospital earlier. Consequently, the patients who remain in the hospital are usually more ill and require care of a more sophisticated and labor intensive nature. The care required in many instances can be provided only by a Registered Nurse.

As a consequence, hospitals are already stressed from a staffing perspective. They can't fill the jobs they have open. A federal mandate to provide certain time off will only cause more jobs to be vacant. If a hospital can't hire all the nurses it needs at the outset, it won't be able to hire replacement workers either if the supply was inadequate to begin with. And if there are not enough nurses to care for patients it is the patient -- and the public -- who ultimately suffers.

Proponents of mandated leave assert that an employer's cost in offering this benefit is minimal since the leave is unpaid. It appears on the surface that an employer's only additional costs would be overtime for existing staff, or benefits provided to the temporary substitute worker. This ignores the fact that many hospitals already pay a great deal in overtime due to staffing shortages. It also doesn't consider that the staff being paid overtime are tired people. And perhaps most importantly, these cost estimates ignore the costs of recruiting and training qualified replacements.

Registered nurse openings in my hospital remain vacant an average of 2-3 months before they are filled. Some jobs in very specialized areas or certain shifts have remained open for as long as 3 years. If, as a result of this bill, my employer were forced to increase its "help wanted" ads in the newspapers every weekend, it would cost roughly $100.00 per insertion. Advertising alone therefore could minimally cost $1,200.00 for a 3 months period.

If my employer were lucky enough to find a replacement nurse, we would then have to train him/her in the techniques of giving care in my hospital. It costs us $28,000.00 to train one RN to work in our Operating Room, $18,000.00 to train a Critical Care RN, and $13,000.00 to train an RN to work on a medical or surgical floor.

We employ in excess of 1,000 RN's. We could easily experience additional training costs of $1,625,000.00 if 100, or just less than 10% of our RN's -- 15 Operating Rooms, 25 Critical Care, 65 Medical/Surgical -- were on parental leave required by a new federal mandate. And of course, I have not even attempted to calculate the costs and difficulties associated with gaps in care while these individuals are in training.

Unfortunately, there are numerous health care professions that are undergoing the same supply and demand crisis -- professions that are vital in providing care in today's incredibly technical and complex medical environment. Respiratory Therapy, Pharmacy and Physical Therapy are but a few. The shortage appears to be nation wide though some geographic areas are harder hit than others. Typically, hospitals in rural areas have more difficulty in attracting and retaining competent specialized staff. Such hospitals may not be viewed as the best professional environments in which to work -- they may not have the latest specialized equipment and may not perform certain procedures. They may pay lower wages that their urban counterparts. It would be virtually impossible for small rural hospitals to overcome such obstacles in finding replacement workers. Since their staff are smaller, there are fewer people to absorb additional work during an absence. A hospital administrator in any community has few good choices when the only RN on the night shift on a particular floor takes off 10 weeks to care for an ailing family member. While there may be other staff on the floor, they may not be qualified -- either by education or law -- to care for patients.

Most health care employers are grateful to be permitted the flexibility to deal with all fringe benefits issues, including medical and family leave issues, in ways that would work best for their employees and environments. Likewise, employees usually prefer choice and flexibility about the benefits they receive -- most of us would like to have that which will personally be of benefit to us. If this leave benefit is mandated, it will reduce the possibility for choice and flexibility for employers and employees. Employers will calculate the costs they will incur as a result of this legislation. They will then decrease their fringe benefit budgets to offset those costs. The result may be a scaled back fringe benefits program that complies with the law but does not satisfy or meet the needs of employees. This result would happen in both small and large hospitals, because today's hospital market is highly competitive. Hospitals simply cannot afford to absorb additional expenses without offsetting them elsewhere.

I believe that my hospital is a good example of an employer that voluntarily provides employees with the opportunity for unpaid time off. Under our policy, which is in writing and communicated to employees, employees may request up to 6 months for health, up to 24 months for education, up to 6 months for personal, and up to 48 months for military leave. Pregnancy is evaluated as any other physically disabling condition for health leave purposes. Any request for time off that isn't clearly military or for education purposes is considered personal. All requests for leave of absence are individually reviewed on a case by case basis by the employee's manager and the Human Resources Department. Most requests are granted. However, the hospital retains the flexibility to negotiate length of time off and retains the flexibility to deny the leave. Even though the hospital makes time available, a newly enacted law would likely eliminate the flexibility we need to respond creatively to both the hospital's and employees' needs.

My hospital provides numerous other benefits to employees without governmental mandates. These include an Employee Assistance Program, Tuition Assistance, Cash Recruitment Incentives, and a broad range of insured benefits and paid time off benefits. We are in the process of exploring the employee interest and the financial liability of on-site child care. Should we be mandated to provide a specific benefit, it is highly probable that the mix of our benefits offering would have to change as we adjust our budget to comply. The unfortunate result would be employees left without benefits they previously enjoyed which are now replaced by benefits they had no input in requesting.

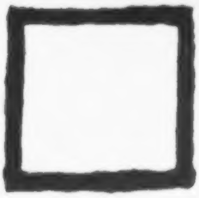
When we gather all the data, the costs to all of us become apparent. I urge you to oppose federally mandated benefits.

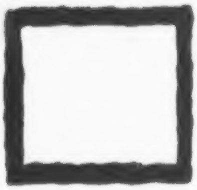
That concludes my statement. I would be pleased to answer questions from members of the Committee.

EMPLOYERS and CHILD CARE
The Human Resource Professional's View

1988 Child Care Survey Report of the American Society for Personnel Administration

EXECUTIVE SUMMARY





The American Society for Personnel Administration (ASPA) has conducted the first national study of its members' views on the subject of child care. In March, 1988 a random sample of 5,554 human resource professionals was selected from the ASPA membership, and 1511 usable responses were received (response rate - 27 percent).

This survey not only addressed the present level of member interest, awareness and involvement in child care, but also inquired about specific services their employers are considering or have implemented. Another important goal of the survey was to examine the perceived obstacles to their employer's involvement in child care, as well as to uncover member opinions about related legislative initiatives.

Survey Sample Demographics

Company size is an important demographic variable in this study. The size of an organization relates closely to knowledge of and activity in child care. Because of this, many responses were analyzed using data grouped by company size.

Almost 40 percent of the respondents were from companies of small to medium size (100-500 employees), 25 percent were from medium to large companies (501-1500 employees) and 25 percent were from large companies (more than 1500 employees). Twelve percent of the sample were from companies with less than 100 employees.

Manufacturing was the industry category in which the largest percentage of the sample was employed (45%). Finance, insurance, and real estate was the next largest industry category represented (14%), followed by the services category (7%). The geographic regions most heavily represented were the midwest (29%), northeast (23%) and southeast (16%).

Slightly less than half of the survey respondents held the title of Director or above (45%). The other half consisted primarily of Managers (36%) or Administrator/Specialists (14%).

SURVEY FINDINGS

A

Section A

Current Involvement in Child Care

While half the respondents surveyed state their company is not yet involved in child care, the other half have some level of involvement. The majority of these are in the process of exploration, ranging from researching the issues to investigating employees' child care needs. Ten percent of the sample currently provide some type of child care support or service (see Figure 1).

Regardless of company size, three percent of the respondents believe their companies are very adequately meeting the child care needs of their employees and 16 percent say they are adequately doing so. This leaves the majority who state they are either less than adequately fulfilling their employees' child care needs (57%) or are unsure about it (24%).

Adequacy of Employer Information on Selected Child Care Issues

As Figure 2 displays, there appears to be a general need for more employer information on child care and greater knowledge about employees' child care needs. Respondents were most informed about the tax advantages for employees choosing child care through a flexible benefit/savings plan, although large companies were more likely to have this information. Approximately half of all respondents state their companies are informed on proposed federal legislation.

Companies need more information on the costs of providing child care. As later data reveal, employers perceive cost as one of the biggest obstacles to becoming more involved in child care. Up to 77 percent of those from small organizations state they are not informed on cost, with those from larger organizations somewhat more informed. However, even for these, half report they are not adequately informed.

Regardless of company size, the majority of respondents state they do not have a current assessment of their employees' child care needs. Almost 80 percent report they are not up-to-date or are unsure if they are up-to-date in assessing their employees' needs.

Section B

Employer Activities in Child Care Support and Services

More than one approach can be taken to assist employees with their child care needs. Respondents were asked to describe their company's choice of initiatives which were categorized as the following: 1) Financial Assistance, 2) Information Services, 3) Company Owned/Sponsored Child Care Services, 4) Alternative Work Schedules, and 5) Family Leave Options.

Financial Assistance

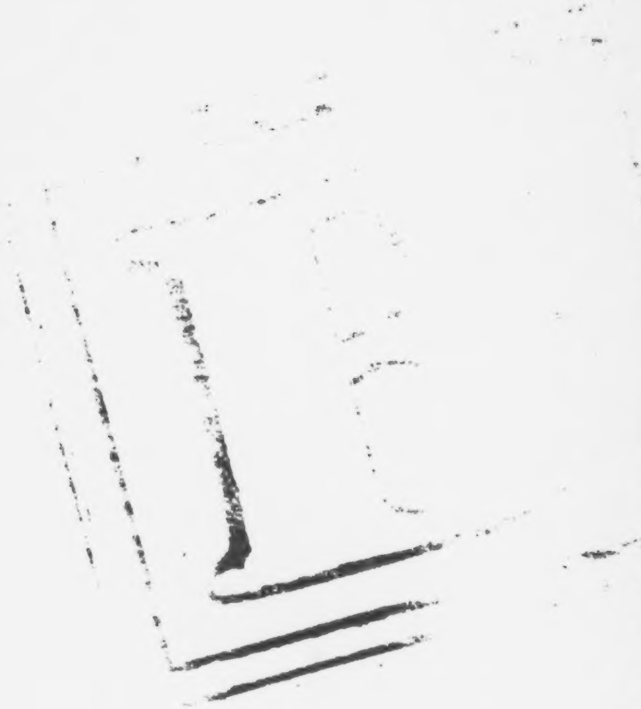
The two financial assistance methods which are most popular include flexible benefit plans with a child care option, and Section 125 savings plans. One out of two companies in the sample have considered, are currently considering, or have implemented one or both of these benefits. Although larger establishments are more likely to be providing or considering these plans, small companies are considering these benefits as well.

	COMPANY SIZE					
Level of Involvement in Child Care	**All Companies (n=1511)**	**Less than 100 employees (n=178)**	**100-500 (n=640)**	**501-1000 (n=347)**	**1001-5000 (n=228)**	**5000 plus employees (n=118)**
Preliminarily exploring issues	25%	16%	23%	32%	26%	36%
Researching employees' child care needs	10	6	6	13	12	20
Currently choosing child care service	4	1	2	4	10	7
Currently providing child care service	10	2	6	14	15	16
Expanding/Revising child care service	4	0	1	3	10	12
Not currently involved in child care	53	71	63	42	36	31
Other	5	6	4	7	7	5

*NOTE: Percentages may not equal 100 because more than one response may be checked.

ALL COMPANIES
(n=1511)

Is Your Company Informed on the Following Topics?	**Yes**	**No**	**Unsure**
Tax advantages for employees choosing child care through flexible benefit plan	60%	27%	13%
Proposed Federal legislation on child care issues	51	29	20
Tax advantages for employers who provide child care	43	35	22
Research on effects of child care on productivity, absenteeism, etc.	38	44	18
Employer costs of providing child care services	33	46	21
Current assessment of employees' child care needs	21	63	16



Information Services

One out of three companies either have an information/referral service or are considering it. These services, where companies gather and disseminate information on available child care in the community, are most frequently reported by respondents from larger companies. Counseling services which help working parents cope with family stresses are also in place or being considered by more than one half of the larger organizations.

Company Owned/Sponsored Child-Care Services

Activities such as employer-sponsored child care centers, centers provided by contractors, and child care consortiums are found in few companies. Currently, five percent of all companies surveyed offer an employer owned/sponsored child care center. The consideration and provision of a child care center directly relates to company size. About half of the larger companies (more than 1500 employees) have at least explored the possiblity of an employer owned/sponsored center.

Other types of child care services such as employer contributions to after school programs, telephone "hot-lines" and nursing services for sick children have not yet been investigated by the majority of companies. This holds true regardless of organizational size.

Alternative Work Schedules

Work policies which may help accommodate parental needs include flextime, part-time work options, job sharing, work-at-home programs, and special summer or holiday hours. Based on this survey, the options which employers appear most likely to provide include alternative schedules, especially part-time work, and flextime to assist with employees' child care needs. One out of two companies have part-time work available, and over one-third have flextime arrangements. Although there is still a positive relationship between provision of these options and company size, a significant number of small companies offer these alternatives to their employees.

Family Leave Options

Respondents were asked to describe what types of leave opportunities their company currently provides to parents. As Figure 3 reports, pregnancy disability is the type of leave offered most frequently by employers. This is leave granted for pregnancy which ends after the woman give birth and the doctor allows her to return to work. If the company has a disability policy, then, by law, they must include pregnancy as a disability. Paid pregnancy disability leave is offered by more than two thirds of the sample.

Maternity leave was defined as leave given the mother to be with her child, even though she is healthy and able to work. Ten percent of all companies report they offer paid maternity leave. This is fairly consistent across company size, with a range of seven to 13 percent. Unpaid maternity leave is offered by 44 percent of all companies. Forty five companies (3%) offer paid parternity leave, with unpaid paternity leave offered by 19 percent.

Almost all companies (95%) which offer paid pregnancy disability leave do so for longer than four weeks. Half of these offer paid leave for more than eight weeks. Small companies were less likely than larger companies to offer paid leave for longer than eight weeks.

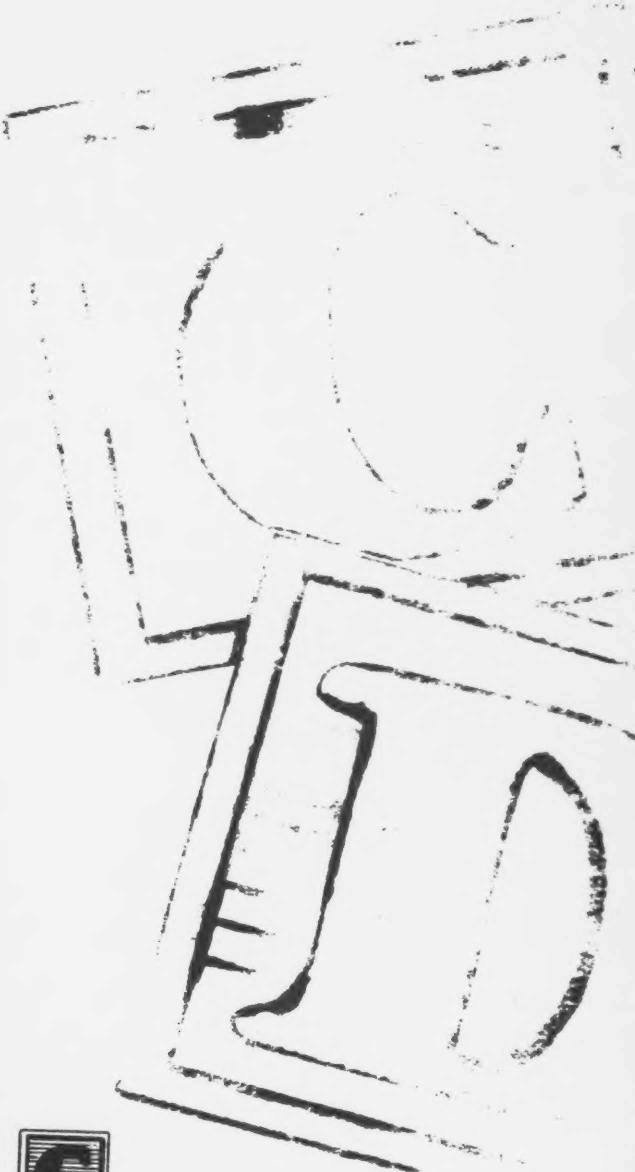
The majority of companies

Type of Family Leave Options

	ALL COMPANIES (n = 1511)
Pregnancy Disability Leave	
Paid Disability	68%
Unpaid Disability	41
Partially Paid Disability	23
Maternity Leave	
Paid Maternity	10
Leave charged to vacation, sick, or other leave	15
Unpaid Maternity	44
Part-Time Return	17
Flexible time off	9
Paternity Leave	
Paid Paternity	3
Unpaid Paternity	19
Paid leave charged to vacation, sick, or other leave	21
Temporary Part-Time	2
Flexible Time Off	5

which provide paid maternity leave offer it for five to eight weeks (59%). Another 32 percent offer this leave for more than eight weeks. Unpaid maternity leave is offered by most companies for more than eight weeks (63%).

Thirty of the 45 companies which provide paid paternity leave reported a specific time period. Of those 30, sixty percent offer it for less than four weeks. However, unpaid paternity leave is available for more than eight weeks by the majority (65%) of the 246 companies who offer it.



Section C

Potential Obstacles to Employer Involvement in Child Care

The intent of this section was to learn what the respondents believe to be obstacles to their company's involvement in child care. Potential obstacles were listed and the respondents were asked to circle the appropriate number on a scale ranging from 1 (not an obstacle) to 5 (major obstacle). Cost and liability issues, concern over equity of employee benefits, employer's familiarity with child care options, commitment from top management and company involvement in family matters were some of the topics addressed.

The survey found all companies are especially concerned with expense and liability insurance. Respondents generally are familiar with the child care options available to them, although the complexity of a child care system is an obstacle for many. Lack of commitment from top management was cited as a major obstacle by about half of all companies, and the lack of research evidence into the long term benefits of providing child care was also a major concern.

Section D

Employer Perceptions of Child Care Legislation

Because of the increased interest of Congress in child care, and the numerous related legislative proposals, a section was included in the survey to examine respondent's opinions on certain legislative initiatives. Specifically, questions were asked regarding funding responsibilities, incentives for increased employer involvement in child care, and legislation mandating certain entitlements.

Survey respondents hold strong opinions about who is responsible for child care. Most agree that the funding of child care is not primarily the responsibility of the employer or the government, but the employee. However, there is mixed reaction about whether the funding of child care services should be shared between the government, employer and employee.

Most respondents do not advocate government control over child care issues. For example, 83 percent disagree with mandated paid parental leave, and 69 percent disagree with mandated unpaid parental leave. Most also do not agree with legislation which gives pregnancy disability preferential treatment over other disabilities.

Three out of four companies would like tax incentives for providing child care assistance, and one out of two agree government grants should be provided for employer sponsored programs.

How to Obtain Additional Information

A full report with detailed information on each of the above sections is available from the American Society for Personnel Administration. Most data is analyzed and displayed for all companies and by company size. The cost of the report is $35.00 for ASPA members and $50.00 for nonmembers. To order, complete the following ASPA Publications Order Form:

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Senator DODD. Thank you very much, Ms. Ashley.

Mr. Carter?

Mr. CARTER. Senator Dodd, I would like to thank you and the committee for the opportunity to give this testimony.

Senator DODD. Move the microphone a little closer to you and lower it a little bit, too. It is not quite picking up your voice.

Mr. CARTER. Senator Dodd, I would like to thank you and the committee for the opportunity to give this testimony today. I am a small business owner and this particular legislation is of great importance to me.

My wife and I faced a critical decision in 1980 with the premature birth of our first-born daughter. The critical care our daughter needed prevented my wife from returning to work within the time frame provided for maternity leave by her employer at the time.

I was struggling in an attempt to start a new business and could be of little help in my new role as a parent without jeopardizing the investment we made in this venture. We were left without the alternative provided for in the proposed legislation your committee now has under consideration.

I employ 20 people, 7 men and 13 women. Four men and four women are critical employees. They are critical to the performance of my business. I am a registered Republican and I support the Family and Medical Leave legislation, for several reasons.

Senator DODD. That is entirely consistent. [Laughter.]

Mr. CARTER. I believe all employers must face up to the pressures parents face as a result of the family's growing dependence on two incomes. The significant adjustments parents face with the arrival of a newborn is enough distraction to employees, without the additional burden of having to compromise their best efforts to provide the care they feel is best for their newborn.

In regard to medical leave, employers already make considerations for medical problems of their own employees, but they cannot afford to ignore the medical responsibilities of employees for dependent children and to dependent adults.

As an employer in a small company, the personal considerations of my employees are inherently important to me. In a small company, all employees are key employees, each depending on every other for a critical contribution to the success of our company. I must continually evaluate the ability of my employees to be productive.

To force these individuals to choose between the health and welfare of their dependents and their careers has to be avoided at all costs, but the choice is inevitable. It has been my experience that the best policy is to provide the necessary leave and to plan accordingly. This is accomplished by spreading the workload and supporting the temporary leave with temporary employees.

The cost of this alternative is short-term and the benefits of this policy command the respect and loyalty of all our people. In addition, it allows employees the best possible opportunity to resolve their personal crisis.

As an employer, my concern for the health of my business is of paramount importance. I believe employers are hesitant to accept government legislation on any matters regarding terms of employment, because business owners fear that the family and medical leave benefits being proposed here will diminish the competitiveness of their firms' products and services. It is for this very reason that I believe this legislation is crucial to insure that all competitors in the marketplace will implement these benefits on an equal basis.

Specifically, this legislation will level the field of competition, and this is what I as a small business operator need. I would like to be able to provide these benefits. We do provide the benefits. I would like to see to it that all my competitors do as well.

At my company, we provide up to 8 weeks of paid parental leave and 4 weeks of paid medical leave. While it is not a matter of policy, we provide indefinite unpaid leave.

With regard to provisions in the pending legislation exempting key employees, I believe this to be unfair. A key employee by definition has a significant interest in the viability of the business. A key employee will not pursue a course of action which will threaten the performance of their company's ability to produce. If this legislation were to include key employees, would ensure the right of key employees to negotiate a feasible leave of absence on an equal footing with an employer. I think this is necessary. This is necessary to insure that employers will make every effort to accommodate the critical needs of employees in dire circumstances.

I think that, as compassionate people, we all support the fundamental good this bill will do for employees. As a small business owner, I am always looking for a competitive edge for my company. I found that my only long-term edge is the dedication and the commitment of the people who work with me, and this legislation will help ensure the dedication and the commitment I need to maintain that edge.

Thank you.

Senator DODD. Thank you very much.

John, do you mind, I am going to have Susan Hamilton go ahead and you will hear both of these people.

Ms. Hamilton?

Ms. HAMILTON. Good morning. My name is Susan Ditto Hamilton and I am the owner and operator of Martha McCool's Restaurant and Lounge——

Senator DODD. Could you speak up a little bit for us, Ms. Hamilton? You have come such a long way, we do not want to miss this testimony. Are we all invited for lunch, by the way?

Ms. HAMILTON. Certainly. If you would come to New Mexico, I would be happy to have you.

As a member of the Federation of Business and Professional Women's Clubs, the local Chamber of Commerce and the National Federation of Independent Business, I would like to thank Senator Dodd for the opportunity to present testimony in support of the Family and Medical Leave Act.

I am a small business owner and would like to begin by telling you a little bit about my business. I founded, own and operate a restaurant, cocktail lounge and gift shop in the Holiday Inn in Tucumcari, New Mexico. I began the business with a starting capital base of $35,000 of personal and family money. The business opened in 1978 and now grosses $750,000 annually. I have 33 employees.

Before I begin to tell you about my first-hand experience as a small business owner who offers family and medical leave benefits to her employees, I would like to share with you several facts I learned as I prepared for my presentation to-day.

For example, a study by 9-to-5, the National Association of Working Women, found that the working family and medical leave policies are strongly associated with small business job growth at rates that are higher than that of all States. The study found that parental leave policies had no negative effect on small business growth in States which enacted such policies between 1976 and 1986.

In fact, parental leave policies were associated with high job growth in the small business sector. 9-to-5 also reported that there is a positive association between a high rate of women's labor force participation and employment growth in all size firms. This last finding is especially noteworthy to me, a business owner who employees women and as an American who knows that all workforce studies predict that women and minorities will fill most of the new jobs created by the year 2000.

These statistics are important, but as a small business owner, it all comes down to one unalterable fact: I know that I have a major investment in each and every one of my employees. This investment is even more important because my business is a service-oriented one, in which people can and do make all the difference. It takes weeks, sometimes months, of intensive training to mold each of them into a viable, effective, and productive member of our service team. This team is the most important ingredient in the success of my business.

Training, skills and work environment are important ingredients in productivity; so, too, is how employees feel about themselves and their life situation. The well-being and peace of mind of each member of our team should be and is as important as my own. Often, this well-being and peace of mind are intricately tied to family matters, especially family as it relates to work. As a single mother myself, with six children, I am keenly aware of the many problems that can arise when the inevitable tug-of-war arises between career responsibilities and family obligations. This is even more true when you are dedicated to career and family as equally important parts of a fulfilling life.

This tug-of-war often results in an enormous amount of guilt for many working people. Neglect of our responsibilities, whether to job or family, causes this guilt, and the guilt in turn diminishes the well-being of the employee. I believe this guilt, and its resulting impact on the productivity and performance of the employee, can be greatly reduced through simple revisions of parental leave policies as they exist for the majority of the workforce.

Such revisions would help create for all working Americans the kind of environment in which balancing their work and family responsibilities no longer proves a source of frustration and hindrance to them. In this way, we can give our best efforts to each side of our lives without endangering the other, and this can only lead to increased productivity at work and improved family life at home.

When I first joined the workforce in 1961, women were expected to leave their jobs shortly after they discovered they were pregnant. This was such a waste of talent, training and energy. At that particular time, I had just graduated from college and I was beginning to be an interior designer and I worked for a large department store in Florida. When I was pregnant with my second child and I told my superiors, they told me I would have to resign because it did not go along with the image. We were a very young family and I resigned and it was just such a put-down, it took a long time to get back into the workforce and find another job and it was not even the same thing that I was interested in the second time. I think it gets harder and harder if you do not have some kind of stability behind you.

Increasingly, this is no longer the case. Women today must work to support themselves and their dependents due to two primary factors: a restructured economy that requires two paychecks to equal the purchasing power of one paycheck only two decades ago, and the growth of single-parent, typically woman-headed households.

I believe small businesses have led the way in changing these perceptions, and the small concessions employers must make to retain women employees during this important stage of their lives is well worth the return. I know this to be true, because I have put these ideals into practice in my own business.

Since I opened my business in 1978, we have offered the following benefits to our employees: Unpaid parental leave for family medical needs. Although my policy does not outline a specific number of weeks of leave, I believe the 10 weeks provided for in the Family and Medical Leave Act is appropriate and something I, as a small business owner, could accommodate.

We offer unpaid maternity leave of up to 6 weeks, longer if extenuating circumstances are involved. I also provide unpaid paternity leave, if necessary.

Unpaid medical leave, as long as a doctor's excuse is provided. Again, I do not specify a particular number of weeks of leave allowed, but agree that the fifteen weeks provided for in the bill is appropriate.

I have one little lady who works for me that is about 72 years old that does a lot of the cleaning at night and she hurt her leg about a year and a half ago and thought she would only be out for a month or so, and she ended up being gone for a whole year, but somehow we all worked together and did her job while she was gone. Now she is back at work just perfectly fine and I doubt if the lady that age would be able to find other employment with anybody else under normal circumstances, after being in that situation.

I also have a head cook that had an alcohol problem and he checked himself into one of the rehabilitation clinics and he was gone two or three months and, again, we all pitched in and worked extra hours and he is back now and he has been doing fine ever since. That was about six months ago. We try to be just like a family and help each other when it is necessary, and in turn the other people that we have done things for do things for us when there is something that we have to do, but it seems to work out really well and I really do not think there is any extra expense involved in it, other than the extra hours expended, but you get that back in so many ways that I do not think that is even important to talk about.

Additionally, for your information, I provide a group health insurance policy available through the National Association of the Self-Employed, and we have another one available with a little bit different benefits through the National Restaurant Association.

We did not establish any of these benefits by eliminating others. When an employee takes advantage of the leave available to them, we rearrange other employees' schedules to cover those hours. In fact, I have covered many hours when the need arose myself.

In the summertime, when college students are available, I sometimes hire them on a temporary basis to cover for someone on leave. However, I never hire someone permanently and then fire them—they know they are just filling in for an absent permanent employee.

Obviously, we are very flexible in our efforts to accommodate our employees. In fact, I am convinced that our flexibility has resulted in less employee turnover, which, as you can guess, is usually very high in this type of business.

In addition, these measures have saved many, many training dollars while maintaining a consistently high level of service in my business. I am convinced that these policies are a wise investment in my employees and their morale, and these investments have paid off in terms of productivity and the bottom line.

I think the benefits we offer are very important to my employees and reflect the value I place on them as members of my team. I would like to read a brief letter from one of those employees, Cindy Cox, who really explains best why family and medical leave are important to her.

Her letter reads:

> Dear Sir: As an employee of Martha McCool's Restaurant at the Holiday Inn, in Tucumcari, New Mexico, I would like to express my feelings on the maternity leave offered where I work. I cannot tell you how important it was to have that secure feeling to know that I could take time off when my child was born and not have to worry about my job. I knew that when I was able to return to work, my job would still be there. I wouldn't have to worry about losing my present position or having a cut in pay. It was such a great feeling—being able to have it all. I was able to have a family and a great job, with no penalty for choosing to have both. Sincerely, Cindy Cox.

Obviously, no employer can hope for any greater return on her investment in her employees than the enthusiasm, energy and loyalty revealed in this letter. And the supposed cost of such benefit programs is a small price to pay for employees like Cindy. Having employees who feel that, by working for me, they can "have it all" is not only a source of pride. It is good business.

I hope that by passing the Family and Medical Leave Act, Congress will ensure that all business owners will learn the secret to my success.

Thank you.

Senator Dodd. Thank you very much, Ms. Hamilton. Again, we appreciate your coming such a far distance and every member of this subcommittee makes a commitment to eat in Martha McCool's Restaurant, in Tucumcari. [Laughter.]

John Motley, again an old friend who has come before us many times. John, I appreciate your patience in waiting, but I thought it might be helpful if you heard both of these people and give you a chance to——

Mr. MOTLEY. I sense some purpose to the witness order, Mr. Chairman, I just got that feeling.

Senator DODD. I give you the last word. I always give you the last word.

Mr. MOTLEY. Thank you very much.

On behalf of NFIB and its 570,000 members coast-to-coast, I want to thank both you and Mr. Coats for the opportunity to appear here today to share with you once again our views on the Family and Medical Leave Act.

I would also like to say, Mr. Chairman, that we very much appreciate your willingness to continue the dialogue that has taken place over the last three years or so now between yourself and members of the committee and the small business community.

I have a full statement with attachments, including several letters from NFIB members in the State of Connecticut who would discuss the problems that they feel they would have with providing health insurance and also finding adequate temporary help if this law were to pass, that I would like to submit for the record.

Senator DODD. Absolutely, they will be included.

Mr. MOTLEY. In addition to that, I also have a statement submitted by the Alliance for Responsible Employers, which is a coalition opposed to the legislation, consisting of roughly 170 trade associations, professional groups and corporations that I would like to submit for the record.

Senator DODD. They will also be included.

Mr. MOTLEY. Thank you, Mr. Chairman.

I guess the best place probably to start is to state once again, as you have obviously heard here this morning from Jeff Carter and from Susan and from Carol Ball earlier, that small business owners do not oppose a family and medical leave or parental leave as a fringe benefit for their employees. But I think I would also have to restate rather firmly or strongly as I could what I believe to be the depth and the breadth of the opposition that they have to your particular piece of legislation which mandates this particular fringe benefit.

Let me just go back and recall some of the things that I would use to develop that position. In 1986, NFIB polled its membership, and 83 percent of those members who responded were opposed to this particular piece of legislation, 11 percent supported it.

The 1986 White House Conference on Small Business made opposition to this legislation its number two recommendation, with 1,360 of the 1,715 delegates who attended voting against it.

In 1988, the Small Business Administration's National Advisory Council unanimously passed a resolution against the bill. Also in 1988, the National Advisory Committee for the Senate Small Business Committee passed a very similar resolution.

NFIB itself right now is again polling its membership, not only on your bill, Senator, but also on the proposal put forward by Senator Coats which is to provide tax credits to offer incentives to employers to provide this type of leave. We should have the results of those polls within several weeks.

Senator DODD. I think I am going to lose, John.

Mr. MOTLEY. Possibly.

You know, there really are many reasons for small business opposition to legislation. You have heard a number of them here today. Let me recap them very quickly, if I can.

First of all, there is the overwhelming philosophical opposition of most small business owners to Congress mandating that they provide fringe benefits or interfering in the employer-employee relationship any more than is necessary. They view this as Washington trying to micromanage the day-to-day operations of their business.

In addition to that, from an economic standpoint, most small business people in this country tend to feel that we are doing fairly well economically and that to take away the flexibility that they have and to add rigidity similar to what we have in Western Europe to the employer-employee relationship to compensation package is not the right way for this country to go, and they think that if you compared the economic data from the two economic powerhouses over the last decade or two, there is ample proof to prove their point.

Third, there is cost from our standpoint. You heard Patricia before indicate the costs that she believes that her hospital would incur. Despite the fact that this is unpaid leave, we also believe that there are other costs out there that will be incurred. There is the replacement and/or overtime costs, whether you have to go out to a temporary firm and hire somebody—and I think you know if you were to do that, you certainly pay a premium for taking that person for a short period of time, rather than to go into the marketplace and hire a full-time employee.

There are training costs. There is certainly lost productivity, and that depends upon the type of job. That is why I do not think you can put any overall figure on the costs of this. There is the carrying of health insurance for those employees. In addition to that, there are a number of firms, depending on the State the business is located in, there is likely to be increased unemployment compensation costs. For a 10-week leave, at minimum wage, in 19 States the person coming off, the fill-in person would be eligible for unemployment compensation, which is going to have some impact upon the unemployment compensation payroll taxes that those firms are going to have to pay.

We strongly disagree, as you probably know, with the GAO study. We think that it grossly understates the costs that are involved. We do believe that the research and the basis for the study is of poor quality and it is misleading, and I do not think this committee would allow NFIB or the Chamber of Commerce or any other business group to come up here and to put a study like that before this committee, based upon a survey of 80 firms in two labor markets in this country, not when you have 4.5 million employers out there.

We also have serious problems with the 9-to-5 study. We think that the methodology used for it, the Small Business Administration, its data based it is based upon, will not stand behind the study. We spoke to the researchers who conducted the statistical part of the study and they felt that some of the conclusions that were reached were things that they could not stand behind. We also believe that the study ignores other factors involved in job growth and other types of growth such as population shifts, increase in defense spending, government spending, downward factors in the economy, and a whole host of other things, and we would be more than happy for the record, Mr. Chairman, to supply you with a critique of that study for the committee.

There are other problems we believe in the legislation which you introduced this morning, and I will not elaborate on them but what I will do is just simply tick some of them off, and if you would like to get into them, either now or at some future time, I would be happy to do so.

First of all, we do believe that there is a negative impact on startup businesses in this country, especially those startup businesses which tend to grow rather rapidly and are by definition over their first two or three years in existence very marginal, especially in the area of increasing payroll taxes.

Second, employers we believe cannot seek an intend to return promise from the employee, which then makes them eligible for the double whammy of carrying health insurance benefits throughout the leave and then making them liable for providing health insurance for COBA for an additional several months afterwards, and the cost of health insurance is the number one problem being faced by small business owners in this country today. They simply cannot keep up with health insurance inflation.

We agree that there are several different types of discrimination which could probably come as a result of this particular legislation. You heard Carol Ball this morning indicate that she believes that there would possibly be age and sex discrimination. We also believe that the legislation discriminates against the working poor who cannot necessarily afford to take the time off, and we also do believe that it discriminates against fellow employees who, we agree with Patricia, would probably lose some benefits somewhere in order to make up for the benefit which is being mandated by the government.

The definition of part time employment bothers us terribly; 17.5 hours seems to have come out of nowhere. It is not standard industry practice in many, many industries, and simply, if you look at it mathematically, part time employment might be 20 hours a week, rather than 17.5 hours a week.

We have problems with the loosely defined medical leave provisions. We think they are open to all sorts of interpretations and would create problems as the legislation is enforced. We believe the penalty provisions are excessive and that could lead to expensive litigation and we do believe that because of the impact on the unemployment compensation insurance system, that the legislation could put undue stress on UI trust funds in those States where the temporary help would be eligible.

Before concluding, Mr. Chairman, and without questioning the depth of your concern and your sincerity about this legislation, because having talked to you, I certainly know that you are indeed very, very sincere and pursuing it for all of these years, I really must question whether there really is a need for legislation mandating this type of benefit.

You know, we can always find examples of abuse in almost any area and we could bring people forward who would be willing to explain the problems that they have had. Indeed, I will bet you that we could even find a couple of pretty good examples of abuse amongst the 535 members of Congress in this particular area.

I would have to say that, with there being general agreement, most large firms provide this as a fringe benefit already, that roughly three out of four small businesses in this country are providing some sort of unpaid leave, with rights to return to your job, and you heard that here from the various different business people who have testified. They are all doing that right now and some of the plans are very, very good.

With the changes that everybody agrees are coming in the marketplace, where employers are going to be going out and competing vigorously and fiercely for qualified employees, I think possibly the problem that might exist is not really as big as it may be perceived to be as we hear dome of the very heart-rending stories that are out there, and that maybe we do not need to mandate this, maybe we need to find ways to encourage the minority of employers which are not being responsive today, to be responsive in some way or other.

In concluding, Mr. Chairman, we at NFIB, most of our members obviously think that some sort of family medical leave, some sort of leave to take care of the problems that are faced by employees of any type is an excellent fringe benefit and we encourage all of our members to try and find some way to work it out. We think all firms should, whether they be large or small. But we remain staunchly opposed to the government telling them that they must do it.

Therefore, Mr. Chairman, we unfortunately must remain at this point in time opposed to the legislation that you introduced this morning, although we are willing, as you said, to sit down and possibly explore other ways that this problem may be addressed. Taking a look at the legislation put forward by the new ranking minority member of this subcommittee, we find that a very encouraging step and we would certainly like to pursue the discussions along those lines.

Thank you.

[The prepared statement of Mr. Motley follows:]

NFIB

National Federation of
Independent Business

STATEMENT OF

JOHN MOTLEY III

DIRECTOR OF FEDERAL GOVERNMENTAL RELATIONS

NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Before:	Senate Subcommittee on Children, Family, Drugs and Alcoholism
Subject:	Proposal for Mandated Family and Medical Leaves
Date:	February 2, 1989

Mr. Chairman, my name is John Motley, and I am the Director of Federal Governmental Relations for the National Federation of Independent Business. NFIB is a voluntary membership organization with over 500,000 small business owner members. Our membership comes from all of the industrial and commercial categories and reflects the national small business community in its distribution among industries. That is, we have about the same percentage of members in the construction industry, the manufacturing industry, wholesale, retail, etc., as exists in the national business profile.

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The Guardian of
Small Business

NFIB appreciates this opportunity to testify on proposed legislation mandating family and medical leave benefits. To begin with, let me reiterate the small business community's position: we support the concept of parental leave. With today's new workforce and the changing demographics of this country, accommodating the needs of the woman employee and her family is not only important to fostering good employee-employer relationships; it is also becoming a competitive necessity.

In fact, a 1987 random field survey indicated that 72% of our small business owners offered some form of parental leave: leave that was, however, voluntarily provided and negotiated. Unfortunately, it is at this juncture that your proposed legislation and small business owners diverge.

The 1986 White House Conference on Small Business voted opposition to government mandated benefits, such as parental leave, as their number two priority -- second only to the liability insurance crisis -- receiving 1,360 votes of 1,715 ballots cast. While the recommendation was to oppose all federal mandates, it was parental leave that brought this issue into focus and was specifically cited.

Likewise, the results of the September 1986 NFIB Mandate polling showed 83% opposed governmental mandated parental and medical leaves (11% favored and 6% were undecided). Preliminary results of the 1989 NFIB Mandate indicate that opposition to mandated parental leave remains adamant.

In addition, both the SBA National Advisory Council and the 40 small business owner participants on the National Advisory Council to the U.S. Senate Committee on Small Business have passed resolutions opposing enactment of mandated parental leave.

Beyond this legislation's practical difficulties and costs, on which I will elaborate later, the small business community's strong and vocal opposition to mandated parental leave is also an outcry of rage on two principles: one, that the Congress would force its judgment onto the employer-employee relationship to a new and unprecedented degree; and two, that the Congress would attempt to define and regulate the individual needs of the employee. In my department at NFIB alone, the majority of my employees neither need nor desire such a leave package, opting to take advantage of other benefits that better reflect their needs -- benefits such as dependent dental coverage and tuition reimbursement. Similar situations are prevalent in many businesses -- leave packages are generally available to those who need it, but not at the expense of benefits desired by other employees. Small firms in particular find providing desired benefits to be a competitive advantage necessary to keep valued employees.

Small business owners fear that such a precedent would open the floodgates to an increasing number of attempts to force businesses to pay for every benefit deemed so desirable, or those unattainable at the bargaining table, by various elements in the national workforce. Indeed, in the 100th Congress alone we encountered a plethora of mandate proposals including: the Kennedy/Waxman bills mandating health insurance coverage; the Stark/Gradison proposal for mandated catastrophic coverage; and the consideration of employer-paid continuation of health insurance coverage for former employees, their spouses and dependents. Again the goals of many of these bills were laudable, but the small business community does not support the public policy choices made by their sponsors -- that American social policy should be implemented and paid for by American businesses in an effort to keep deficit spending low. Not only is that bad public policy, it also threatens the very existence of our most prolific job creators -- small business.

The American vs. European Small Business Communities: An Issue of Job Creation

In the past decade, small business has been responsible for the creation of over 70% of the 14 million new jobs in this country. The small business community is dynamic in its activity -- record number of new firms and jobs are created each year, resulting in new products, services, and research. This same group, however, also experiences a high number of business failures. At any one time, over 20% would be considered extremely marginal, either as new, startups, or expiring businesses. Despite the inherent marketplace difficulties and government regulation, small business in America is growing.

Contrast the above scenario to the European economy -- the same group of countries held up as a model for the United States because of their "progressive" mandates in areas such as parental leave. The European economy has been stagnant. The twelve leading economies in Europe combined have created less than two million new jobs since 1970. Since 1980, Europe has actually lost jobs and business start-ups are minimal.

Another surprising revelation arises from standard of living comparisons. Despite the proliferation of fringe benefits, usually mandated, available to the European worker, a greater percentage of his or her working day must be devoted to purchase goods and services considered standard in this country. The following chart illustrates how many minutes, hours, or months employees in each city must work to purchase a specific commodity.

Commodity	Washington	Munich	Paris
	(minutes of worktime unless otherwise specified)		
Television (hours) (color, 61 cm)	30	54	106

Telephone (monthly rent)	20	126	287
Toothpaste (75 g)	6	12	16
Suburban movie (best seat)	40	42	48
White bread (unwrapped)	6	25	20
Hamburger meat (beef)	30	60	75
Car (months) (medium)	9	12	15
Jeans (hours)	4	7	10

Source: NFIB Foundation, 1986.

Do we really want to Europeanize the American job creation record and the American standard of living by moving down the path of extensive European mandated employee fringe benefits?

The voluntary negotiation system here is working, adapting, and moving forward. As stated earlier, over 72% of the small business community offers some form of parental leave. The reasons for not providing leave simply cannot be addressed through federal or state legislation as they are inherent in the very being of a small firm. These reasons include: high employee turnover, high percentage of part-time workers, unique and specialized jobs vital to the firm which no replacement or overtime worker can fill, cannot afford to provide certain benefits, cannot afford to hire a consultant to develop a cafeteria plan, or simply no employee interest.

Finally, in this context I would be remiss to not mention the competitiveness, or more precisely the anti-competitive, nature of mandated parental leave. The European experience with mandated benefits is that it has increased the fixed costs of hiring to the point of stagnation. Much of our competitive threat is now coming from Japan and Asia. The compensation packages in those countries is such that Congressional mandating of an even minimal level of benefits for U.S. employees will most certainly reduce our competitiveness and is likely to result in the loss of American jobs.

Mandates and the Employee

In all businesses, and particularly small businesses, benefit packaging is a zero-sum game. There are only so many dollars to go around.

The types and feasibility of benefit packages differ for each employer and are based on a variety of factors such as type of industry, size and skill of the workforce, individual workforce needs, competing standards in the industry by geographic location, and the ability to absorb or pass through costs.

Small employers typically institute a hierarchy of benefits as they mature and become profitable. Vacation and sick leave benefits are generally offered first, followed by health insurance, which also happens to be the most desired benefit. Small businesses expand benefit coverage as their profitability increases and as employees demand certain benefits. Nowhere are these facts recognized or dealt with in this legislation.

Clearly, it is unfair to mandate that a benefit plan for a 55 year-old woman or a 20 year-old single male, for example, contain a parental leave provision when such a mandate might well preclude the offering of benefits, such as paid prescription drugs or dental care, which could be more important to that employee.

Mandates like parental leave change the fixed costs of hiring and could affect a firm's employment decisions. Sixty-six percent of the jobs for young Americans are provided by small employers. They provide the bulk of the on-the-job training for first time job holders. Small business -- labor intensive and pressed for a competitive edge -- will be forced to overlook these same young men and women as the costs of hiring these individuals exceed their potential value to the firm.

An architectural firm's president provides somber testament to "the detriment and harm it (mandated parental leave) would cause to the young people of the future":

> We have an Architectural firm with 65 employees, 60% of them are under 30 years of age. 30% have been with the firm over 20 years. The young people are professional, college graduates and our firm is known as "the springboard to Architecture" in Orange County. We provide health insurance, life insurance, Workmen's Compensation, paid vacations and major sick leave. There are approximately 400 to 500 architects in Orange County who have worked in our firm and left with our blessing to go on with their careers. Our entire program for young people will come to a roaring halt if this law is passed. We could no longer stay in business with a potential of 30 employees home on paid or unpaid leave, and obviously, all interviewing and hiring would be from the 40 years and older group.

Requiring employers to provide parental leave benefits creates opportunities for potential yet subtle discrimination based on age and sex. When choosing between two equally qualified candidates, an employer may be more likely to hire the candidate least likely to take the leave. Clearly it is the wage levels and jobs of women of childbearing years which are most at risk in such a situation.

Congress already has provided a chilling demonstration of this dynamic. In 1982, Congress amended the Age Discrimination in Employment Act, requiring firms with 20 or more workers to provide health insurance for their employees aged 65-69. The amendments also required that the plan be the primary payer of health costs for those workers.

The small business community responded quickly, in the only way it could. Prior to the law's enactment, small firms provided jobs for more than 3 of every 4 senior citizens aged 65-69. Within a year, firms with fewer than 100 workers employed only two-thirds of the elderly workforce.

Mr. Chairman, mandating these benefits may destroy the very jobs proponents seek to protect. The parental leave mandate also threatens to hurt the opportunities and positive gains made in eradicating the wage differential between men and women.

Mandates and the Employer

The Senate Proposal -- Problems and Considerations

Mr. Chairman, I would like to move from the practical and long-term problems with mandates in general and mandated parental leave specifically to discuss the actual details of your proposed legislation.

Putting the fundamental and insurmountable problem of the mandate aside, there are many aspects of this legislation that further erode a small firm's ability to offer the proposed package.

I. Impact on Unemployment Insurance Costs

Payroll taxes, which include unemployment insurance (U.I.), are generally the largest tax bite incurred by small firm. According to the GAO, additional burdens on the unemployment insurance trust funds will jeopardize their fiscal integrity because many do not have adequate reserves (GAO testimony on July 7, 1987 before the House Subcommittee on Employment and Housing, Committee on Government Operations).

The parental leave proposals dictate a period of leave with a provision for reinstatement of the employee to the same or comparable employment position. If the employer hires a replacement for the employee on parental leave, then dismisses that replacement upon return of the permanent employee, this has consequences in terms of the U.I. program.

Unless the temporary employee has U.I. coverage through an employment agency, the U.I. coverage is the responsibility of the employer. Should an employer dismiss the temporary employee, that employer would, under state U.I. laws, become a "base period" employer. Unemployment benefits are charged to base period employers. Benefit charges determine an employer's future tax rate.

Even if, while substituting for someone taking parental leave, the temporary employee did not acquire enough wage credits to qualify for U.C. benefits, he or she may have accumulated additional wage credits from other employment sufficient to meet state qualifying requirements, again putting the onus on the current employer.

Assume that a temporary employee works full time for 10 weeks at the federal minimum wage. Under this assumption, depending upon the distribution of wages within the calendar year, that individual could qualify for U.I. benefits in 19 states and the District of Columbia. At higher wages, which most workers receive, additional states would allow the individual to qualify for benefits.

Under the circumstances cited above, the following 19 states would allow qualification for benefits: [1]

Alabama
Alaska
Arkansas
California
Colorado
Connecticut
Delaware
Iowa
Louisiana
Maryland
Massachusetts
Minnesota
Mississippi
Missouri
Nebraska
Nevada
New Mexico
South Carolina
Texas

The April 1988 Employment and Earnings report of the U.S. Bureau of Labor Statistics places the average hourly earning at $9.23 for non-supervisory, private, non-agricultural payrolls. Therefore, assuming a temporary employee earns $9.23 per hour, an individual could then qualify for UI in the following 37 states and the district of Columbia: [2]

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
Georgia
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Minnesota
Mississippi
Missouri
Nebraska
Nevada
New Hampshire
New Mexico
North Carolina
North Dakota
Oklahoma
South Carolina
Tennessee
Texas
Utah
Vermont
Virginia
West Virginia
Wyoming

UBA and the National Foundation for Unemployment Compensation and Workers Compensation affirm these calculations. Obviously this unintended impact on the states would be significant.

Discretion and Flexibility

Mandated parental leave usurps the ability of the small businesses owner to make decisions critical to the operation of the business.

Let's take a real life example. The president of a manufacturing firm employing 100 people related to us that if she were forced to include a 10 week parental/medical

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[1&2] Source: The National Foundation for Unemployment Compensation and Worker's Compensation.

leave in the benefits package she now offers, she would put her business in jeopardy. Aside from the costs involved, her business employs specialized technicians that cannot be replaced in the temporary market and whose jobs cannot be performed by putting other employees on overtime. The vast majority of her employees hold specialized and unique positions that are an integral part of the production chain. The long absence of one employee would be difficult for the firm, but the absence of many employees has the potential to paralyze her business.

How does she respond to requests for additional maternity or personal medical leave? "We work it out between the employee and his or her supervisor -- it's as simple as that. If the employee is a valued one, we will find a way to accommodate both of our needs."

The above illustrates three obvious flaws in the legislation. First, there is no provision to permit the employer to make the final determination about leave time based upon a reasonable judgment as to what will or will not unduly disrupt the business. The bill also fails to recognize the unique position occupied by many small firms that rely upon specialized positions which are not interchangeable or cannot be temporarily filled by a replacement worker.

Second, there are no protections to ensure that a high percentage of a workforce is not out on leave at the same time or during peak work periods. Small firms are labor intensive, and the potential for a large number of the total workforce to be out on extended leave is a real threat.

Third, the voluntary approach is rejected by the bill's failure to allow the leave package to be offered in a cafeteria plan and selected at the option of the employee who desires such a benefit. Flexible benefits packages and cafeteria plans permit employees to match a benefit option with their own individual needs. Just as all firms are not alike, neither are all employees.

Intent to Return

Sanctions can be levied against an employer in violation of the Act; however, no reciprocal guarantees or relief are available to the employer who provides leave after which the employee does not return. There is no mechanism by which to determine the employee's intent to return to the business, and failure to return without sufficient notice is essentially a "free decision" -- there is no incentive for the employee to disclose his or her plans to the employer until the last possible moment as there is no potential liability incurred by the employee. That now-former employee and his or her family are also eligible for an additional 18 to 32 weeks of health benefits through COBRA.

The employer should have the option to obtain a written and binding agreement from the employee stating an intent to return to the workplace. Failure to return or provide notice of intent should permit the employer, at his or her discretion, to recover the value of the health benefits received by the employee during leave and to retroactively offset the leave period against COBRA. These protections add necessary symmetry to the legislation.

Sick or Medical Leave

Of the two leave periods, the medical leave is the most unmanageable and disruptive. The potential liability and costs are also enormous. The loose medical leave definition would permit broad eligibility, broad applicability, and great uncertainty. The medical leave would be highly disruptive to the firm because intermittent leave with little or no notice is possible, if not encouraged, by the legislation, and leave would be available for illnesses that are not life threatening or that require extensive hospital care. The situation of a child with leukemia is one thing, but to grant extended leave for a child with chronic sore throats is quite another. Under the current definition, both illnesses accrue equal rights to the leave period and equal employer obligations.

Vacation, sick, and personal leaves should remain the primary leave mechanisms and, if necessary, additional time could be secured by the employer and employee working out a flexible work schedule or additional leave program. Incentives to provide these options could be easily drafted and would ensure that extraordinary medical leave is appropriately targeted to the most critical situations.

What concerns small firms is not crisis or critical situations but the potential for abuses inherent in the loosely designed structure set up by this legislation. Intermittent leave, duplicative leave, and leave for virtually any medical reason are just a few. The second opinion system and "reasonable" notice requirements attempt to deal with some of those concerns, but in reality both would be an ineffective policing mechanism, and the opinion system is costly to the employer, who bears all expenses.

Part-time Definition

The approximately 17-hour definition for part time has crept into legislation throughout the Congress. Where in the world did the justification for this definition come from? Certainly not from the business world. A survey by the National Association of Grocers indicated that part-time workers were employed 26 to 30 hours a week; the National Restaurant Association places its definition in the mid-twenties; simple mathematics leads to a 20-hour definition.

Requiring benefits such as parental leave to be offered to part-time and less-than-part-time workers, as this legislation would require, will jeopardize the very existence of those jobs. Traditionally, part-time positions yield to the firm higher costs and lower productivity. Dramatically increasing the costs of these marginal positions will force employers to re-evaluate the desirability of hiring part-time or seasonal workers. Given that the majority of those workers are senior citizens, students or women, this legislation and others employing this definition act against the very individuals they seek to protect.

Finally, this testimony would not be complete without mentioning the complex problems created by the bill's enforcement mechanisms. The Department of Labor last year issued a comprehensive letter outlining the difficulties of the administrative procedure and the high costs that the government would incur with its enforcement activities. The more-than-treble damages liability an employer faces is unprecedented and will result in costly litigation.

Conclusion

Because the stipulated leave periods are unpaid, a casual analysis would lead one to believe these bills are cost free. Nothing could be further from the truth.

The proposed bills require employers to continue the existing benefit arrangements of employees on leave. We know from our 1985 Employer Benefit Survey that two-thirds of the small employers providing health coverage pay the entire premium cost -- the median cost being $75-95 per month for single employees, $125 per month for an employee with dependents. These expenses would have to be carried by the employer for an employee on leave.

Consider, too, the double-whammy of "COBRA" if the employee on leave decides to quit after the leave period -- the employer must then extend coverage for another four months. One member explains:

> We recently had a young woman who requested three-months' maternity leave which we granted. In order to hold her job, we employed a temporary employment service to fill this job as secretary/ receptionist. During the leave, we paid all benefits. At the end of the leave time, the individual informed us she had decided not to return

> to the labor force. In other words, we went through a period of inefficiency and delay in being able to seek and train a replacement (as well as a monetary outlay to cover fringe benefits) for an employee who did not return.

The number one problem for small firms is the cost of health insurance, according to the 1985 NFIB Small Business Problems and Priorities Survey. Mandating these benefits with continued coverage during the leave period acts as another disincentive for employers to offer health insurance.

For those firms that can afford hiring temporaries, there are the grave consequences of unemployment insurance mentioned earlier. The medical and elder care provisions further drive up the costs. Add to all of the above the elusive costs in lost productivity, training time, and workplace morale, and you have sent the price tag of this legislation through the roof.

Mr. Chairman, all businesses are not the same, and very real economic conditions often dictate the availability and length of any leave period or benefit. Mandatory benefits increase fixed costs. Small businesses already operating on thin margins could be forced to eliminate jobs and may well be driven out of business. This legislation also has the perverse effect of hitting a start-up business the hardest. It is generally agreed that a small business' first three years are its most difficult and precarious. Yet under this bill an original employee would be eligible for the mandated leave in one year or less. This large burden could not come at a worse time for a new business.

With regard to thresholds, David Birch, the noted MIT economist, has published a book in which he discusses the detrimental "hour glass effect" of Canada. Government-imposed thresholds have made medium-sized firms extinct. The Canadian economy must operate with only very large and small firms. Birch is credited for his work in discerning the special dynamism of small firms in creating jobs. His "hour glass effect" is illustrated by these comments of a small business owner:

> If this bill is passed, I am sure that each employer will be extremely cautious when making a decision to hire a person who might fall within these categories. Likewise, I can see that small businesses who now have 19 employees would think twice before hiring any additional help which would automatically place them under jursidiction of this pending legislation.

The real question is whether this type of government is needed at all. It is acknowledged that nearly all large businesses provide for these types of leaves. And NFIB field survey data indicate 72% of small firms allow time off without loss of benefits. Of the 16.3% "no" responses (11.9% were "no reply"), more than half were from firms with fewer than five employees. The United States' voluntary, flexible benefit system has worked well in this area.

While parental leaves are excellent benefits, they are only one option among many. For instance, small firms are more flexible and more likely to offer part-time jobs that allow women to work and still be at home with their children. This mandate would begin to eliminate those options.

The costs of mandated parental leaves will limit the availability of other benefits. NFIB and its members believe that employers and employees are in the best position to structure benefit packages; Congressional dictates ignore individual needs and differences that private negotiations can accommodate.

Congress should not attempt to manage the Nation's businesses from inside the beltway. Mandates haven't worked in Europe and won't work here. I encourage the Committee to defend the flexible, voluntary benefit system and oppose the benefit mandates; jobs really do depend on it.

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Appendix

APPENDIX

Mandated Parental Leave -- NFIB Members Speak Out

"In our unskilled jobs it takes new employees nine (9) weeks to reach production standards. Becoming proficient at operating other equipment can take considerably longer. Hiring safe, trained truck drivers is already difficult and finding temporary drivers is almost impossible. The prospect of having to recruit, hire and provide benefits for temporary people to fill in for employees taking parental leave can do nothing but add additional cost to our operation. The managing of these employees to become productive on a temporary basis is almost impossible."

Malone & Hyde, Inc.
Memphis, Tennessee

"The company encourages long-term employment and makes every effort to accommodate the special needs of its employees when problems occur. The flexibility needed to make these accommodations would be limited if government were to begin mandating benefits such as leave.

If it were to pass, it would have severe consequences for Rockford Coatings because it would require leaves of such a nature and length that it would threaten the stability of our business. If the legislation were in effect today, paternity leave alone would cost our company four months' service of 10 percent of our technical force, including our Rockford lab manager. Paint chemists and service technicians are not available in the temporary market. We would have to choose between overburdening other employees or violating an unreasonable law by denying the leave or hiring replacements. Surely, lawsuits would be inevitable, productivity would suffer and the costs would be grave."

Rockford Coatings
Rockford, Illinois

"The exemption itself is a clue to the harmful effects of the bill. If such a bill were justified, would it not be equally justified for employees of all companies? Do employees of large companies have babies differently than those in small companies? No. The only rationale for the exemption is recognition that its provisions could sink many small firms. It's like saying, 'This is a poison, so we'll only give it to people we think can survive it'".

Cameron Medical Corp.
South Gate, California

"We have an Architectural firm with 65 employees, 60% of them are under 30 years of age. 30% have been with the firm over 20 years. The young people are professional, college graduates and our firm is known as 'the springboard to Architecture' in Orange County. We provide Health Insurance, Life Insurance, Workmen's Compensation, paid vacations and major sick leave. There are approximately 400 to 500 architects in Orange County who have worked in our firm and left with our blessing to go on with their careers. Our entire program for young people will come to a roaring halt if this law is passed. We could no longer stay in business with a potential of 30 employees home on paid or unpaid leave, and obviously, all interviewing and hiring would be from the 40 years and older group."

An Architectural Firm
Newport Beach, California

"When parental leave is needed we take into account the need and act accordingly. At the same time we must consider the work load that must continue. The remaining staff must share the load wholly or partially or we must seek part time help to fill the gap.

Sharing the load puts a strain on an already busy staff but for a few days can be accommodated. Hiring part time help is only a part of the remedy as part timers are unfamiliar with our products, services, policies, methods, and procedures. Frankly they are not worth the current minimum wage for some weeks and the present staff must constantly leave their tasks to supervise the part timer. This is not efficient."

M.R. Pickell
Birmingham, Michigan

"My business was begun in 1948 by my father. Today my brother and I run this business and we provide incomes for over 25 employees. We provide our employees major medical insurance, life insurance, a pension plan, and many other benefits.

These benefits cost us greatly and take great amounts of time to manage. We do not have time or money to continue raising our benefit package and our employees feel we offer a good benefit package now. I therefore disapprove of the Mandatory parental leave bill."

Spalding Gas Inc.
Griffin, Georgia

"If such a Mandated Parental Leave were to go into effect, it probably would be the blow to put all of our independently owned travel agencies out of business. If we had to provide for even a two-month leave for reasons of adoption, birth, or serious illness, we could not afford to hire a new employee for the interim and could not function without a key employee.

We really do not see an advantage for any business having this kind of interruption. It would mean for us hiring only women over 45 who would be less apt to be subjected to this requirement. This would be a great hardship again on young people trying to enter the job market."

Cruise Time & Vacation Travel, Ltd.
Lake Saint Louis, Missouri

"There are twenty-three employees on my payroll. If two of my employees were to request a ten week leave of absence do you know what that would do to my business? How can you replace ten percent of your workforce. That is quite a hardship on the small businessman.

The statistics show that the major employment factor in the United States today is small businesses. Don't cause them to take the same steps that crippled large industries."

Capriotto & Sons, Inc.
Orchard Park, New York

"As the head of a small business, I know that this can be very damaging to the point where there may be no business to come back to.

At one point we were required to hold open a job for a National Guard member who was taking his basic training (we had planned to do it anyway.) This one person was 20% of our staff - a trained graphic designer. For six months we 'made do' with free lancers, etc. This required more time from the rest of our staff. When his basic training was over, he did not return, but looked for a job with higher pay. This left us high and dry again - having to hire and train someone else. Anyone sitting home with a baby would surely use baby's nap time to look to better their position.

I can also tell you that when my son was born, I took a TOTAL of six weeks off work. This was a gracious plenty, even though I had arrived at a single parent status by the time he was born. Surely a two parent, two income family could do as well.

Small businesses - very small businesses - have a difficult time as it is, with all the tax deposits, reports, etc. Don't put another burden on our backs."

E.J. Presser & Co., Inc.
Charlotte, North Carolina

"I'm extremely upset to think that Congress would continue to play Russian roulette with the small businessman, by enacting mandatory parental leave.

At present I pay medical and dental coverage for my seven employees in the amount of $1666.80 per month or an average of $238.00 per employee at no charge to the employee. Add this amount to long term parental leave and it becomes an unbearable expense."

Inland Tool & Supply Inc.
Pasco, Washington

"The United States stands out as an example of what the free enterprise system can do. Europe, on the other hand has been an example of what 'MANDATED' programs can do -- stagnant growth -- in fact lost jobs.

I am a small business man and if you think it is easy to be competitive today and make a profit -- well you should try it sometime. These mandated programs will certainly result in cut backs in our operating budget. This will most certainly mean negative growth or no growth in our hiring practices and will probably result in a lot of small business failures. It is not in the best interest of business or its employees to enact the proposed laws."

Alarm Systems, Inc.
Quincy, Illinois

"The first priority ALWAYS is providing the jobs. I would love to provide my employees with all sorts of benefits and I will, voluntarily, when my business is healthy enough to do so. If you people in Congress continue to ram new taxes, regulations, etc., then you must feel that you can run my business better than I can. The day may soon come when I just may let you do that.

I also rush to point out that you folks on the 'Hill' aren't doing such a hot job of managing the country's finances so what makes this bill's sponsors think they can run mine any better?"

McAdory Oil Company
Lucedale, Mississippi

"As a small business owner, it disheartens me to see that Congress still threatens to mandate parental leave. Their coffers are empty from spending controls, so they wish to finance their programs via the private sector.

It is a matter of record that of the millions of new jobs created over the past eight years, almost all have come from small business. So, now they wish to hand-cuff us!"

Capitol Rubber & Gasket Co., Inc.
Atlanta, Georgia

"I do not see anything wrong on the parental leave, but I do not think it should be mandatory and I definitely do not feel that they should have to be given the same job when they come back to work. As an employer, I ask the question how am I to get their job completed while they are gone if I have to give it back to them when they return from leave. I guess I am supposed to train somebody to do the job efficiently, then turn around and fire them whenever the parental leave expires. I just do not feel that it is right. I think most businesses, I know we do, give parental leave if it is requested and we have a very liberal sick leave policy. We let our employees accrue up to six months of sick leave, with pay. I assure you we will have to discontinue that policy if this mandatory parental leave is passed into law."

Johnston Enterprises, Inc.
Enid, Oklahoma

"Our company has twenty employees and to them it provides a very liberal paid vacation, paid sick leave, and bonus. During the many years we have provided these fringe benefits our company and its employees have prospered. We cannot economically afford the proposed mandated parental leave and medical leave."

Electric Motor & Repair Co.
Richmond, Virginia

"Mandated Parental Leave is discriminatory. Our program is not. We are fair and caring with regard to our employees, because that's the way we do business.

If the federal government dictates our policies, those policies will be much less generous than they are currently. It would also affect our other policies adversely."

Geonics
Clinton, New Jersey

"Its proponents are dangerously short-sighted if they consider only the supposed benefit to employees and ignore the long-term consequences of such a policy to business and society. Consider the following:

1. The costs of providing back-up help for mandated absences would be staggering and would drain resources that employers could use for other benefits and wages that better meet the needs of most employees.

2. It is reasonable to expect that such a law would lead to defacto hiring discrimination against people of child-bearing age, thus lessening employment opportunities for certain segments of the population.

3. Most employers have enough problems trying to run their businesses without Congress making additional management and employee benefit decisions for them.

4. Such socialistic policies in Europe have stifled job creation while the U.S. has experienced several years of growth.

The parental leave proposal ignores a basic fact of our economic life. Mandated employee benefits do not create jobs and income. It works the other way around. Job creation begets employee benefits."

The Northeaster Shopper
Tawas City, Michigan

"The underlying attitude of this legislation is one which demeans hard work. What makes the authors of this legislation think that plant superintendent, bookkeeper, quality control technician, credit manager, etc. are such simple jobs that an employer can snap his fingers and quickly produce someone to fill their post on a temporary basis?

Senator Dodd's proposal would create a situation that in theory sounds fine. In practice, it could be a disaster."

H.C. Brill Co., Inc.
Tucker, Georgia

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Senator DODD. Thank you.

Do I understand that NFIB supports the tax credit approach, John?

Mr. MOTLEY. Not yet, Senator. NFIB does not support anything until we have polled our membership on it, and both ways of proceeding are now before the membership. I believe that the mandate went out within the last two weeks and we should have a preliminary response within four and the final response within six.

Senator DODD. You know, the Vice President last year in the campaign, of course, endorsed the concept of parental leave.

Mr. MOTLEY. Yes, he did. I think he also mentioned providing some incentives that would encourage employers to provide it. You know, that is very much in tradition of what we have done in health insurance, what we have done in the pension area in this country.

In the health area, just for instance, you know, gone from covering roughly 40 percent of the workforce in this country in the forties to over 85 percent of the workforce today. Now, there are still people out there who need to be covered and we have to find some ways to do that, but it has worked.

Senator DODD. I want to ask the staff, do we have copies for Senator Coats as well as these things that I have in my hand? I will have them look at them with me here.

Before I get to some specific questions, a major focus here—we have heard it being addressed lastly by you, John, but others as well—is on the impact on the benefit package. Regarding what happens to other benefits and what particular cost does to the benefit package, there is an assumption here that somehow—and again, this is actually what you made reference to as well as in your testimony—and the fear you have, about what you think is apt to occur if we add this benefit, and what it will do to other benefits that are available. We do have copies for you.

Mr. MOTLEY. I believe those are better than these.

Senator DODD. These, by the way, are all statistics from the U.S. Bureau of Labor Statistics, these analyses. If you look at the first chart, you get a benefit and wage cost increase since 1980 to 1987. What you see happening is back in 1980 there was some difference there between the benefits, salaries and wages, but as you come down into 1985 through 1987, you see that they have really slowed considerably and basically are about the same.

The second graph—and again I think you should have this information in front of you—is the benefit cost excluding health insurance, and obviously health insurance is a skyrocketing cost for different reasons. But if you take out the health insurance factor and compare the benefit cost, then you will find that it is basically tracking CPI, and so the notion somehow that benefits are accelerating or going beyond the cost of the Consumer Price Index, with the exception of health which I understand is also significant, is pretty much not the case. And then if you look at benefits as a percentage of total compensation, again the concern that you are getting an erosion here. And if you look at 1984 through 1987, those pie graphs, you can see with the naked eye, but just for the purposes of discussion, roughly they have remained exactly the same over at least the last three or four years in that area.

Lastly—this graph here shows—this, by the way, is the U.S. Chamber of Commerce chart—the employee benefits of 1986. Here if you look at the costs of the benefits that are provided—the first one, for the purposes of the audience, is legally required benefits, that is $2,333. I mentioned earlier about $8,166 is the average benefit package an employee has in this country. So as you start to break this out, you get $2,333 that are legally required benefits. The pension costs, $1,762. Health insurance amounts to about $1,600, is a benefit cost. Vacation pay costs about $1,357. Holidays cost $820. Sick leave is $342.

GAO estimates on the cost of our bill is $4.35 per year per worker. Now, to suggest somehow that you are going to have to sacrifice sick leave or holiday or vacation pay or others because you have got a $4.35 cost for parental leave, I do not see how you can draw that conclusion. Again, I would come back and ask again, Dana or you, Commissioner, in your experience—I am talking now about facts, and again in the case of our two small business operators—is there a reduction in benefits? Is there any evidence that we have seen from either businesses or States that provide parental leave, that there has been in fact a reduction in the benefit package to any employee covered under a parental leave program?

Ms. ROBERTS. There has been no evidence of that, Senator. In fact, we found that a number of companies had expanded their benefits after the parental leave law had passed to include other employees that were not mandated to be covered by the law. Others, such as U.S. West Communications and Nordstrom's and Fred Meyers are looking at including the same benefits for their employees in States outside of Oregon. We found no evidence of reductions that have taken place in employee benefits.

In fact, we found it very common for the personnel managers to comment that none were even contemplated, that it was a non-issue. Those are the words that one respondent made, and I really think that thus far there is really nothing to indicate that there has been a rollback.

Senator DODD. Before we get to you, Dana, Ms. Hamilton and Mr. Carter, have you reduced, have you felt a pressure to reduce any of the benefits you have had as a result of having a parental leave policy and the costs associated with it?

Mr. CARTER. None.

Senator DODD. Dana, what is your experience with it?

Ms. FRIEDMAN. In preparation for this testimony and last year when I conducted the symposium on the subject, I also had several focus groups with employers and asked these kinds of questions and, you know, without sounding naive about it, they sort of said that they did not count this as benefits, that the strict calculations for health costs and disability and the out-of-pocket benefit costs that are traditionally counted in your benefit costs were not what they considered parental leave, this kind of unpaid leave. It was like flex time to them. This is something they needed to become a more flexible responsible employer, and they did not calculate, none of them had calculated the costs to introducing it, and to know how much they might potentially offset the other costs. I mean that was another indication, but there was absolutely no indication that there was a plan to cut back on other benefits. All they were talking about was how they were going to increase other kinds of supports to families because I know that is what is on the mind of the shrinking labor pool.

Senator DODD. My information is that about 3 percent of the six million employers in this country have cafeteria plans. Is that correct?

Ms. FRIEDMAN. It is 28 percent of the Fortune 500, but about 3 percent of total, right.

Senator DODD. Do you know of any single cafeteria plan in existence in the United States today that includes parental leave?

Ms. FRIEDMAN. No, and I called around to four of the large benefits consulting firms and none of them could figure out a way to do it, and I just pointed out some of the considerations, and in fact I have asked them if they would be willing to work with me on a little paper to figure out if indeed there is a way to possibly make it happen and what the repercussions would be. But they have never heard of it, they have never heard anybody request it, but that does not mean it is not possible. What they were indicating to me was that it was not possible.

Senator DODD. Commissioner, you have been tracking in this survey business reactions to the parental leave plan which is very similar to what is being offered at the Federal level, the one that exists now in Oregon. In those surveys, what is the experience in terms of replacing workers, people who are taking advantage of the leave? Maybe you can give us some indication, not going down all of them, but I know you have some of them there in terms of how many people are leaving. You mentioned that in some cases they are not even bothering to track, because it is so insignificant. I do not want to put words in your mouth, but you mentioned that to me and I would like you to elaborate on that.

Ms. ROBERTS. I can share with you, Senator, some anecdotes and some examples.

Senator DODD. I would like them to be sort of typical ones, but surely not atypical. I do not want to engage in story telling, but what you are saying is reflective generally of the data that you have collected, is that correct?

Ms. ROBERTS. Yes. Actually, there is quite a variation in company experiences in terms of the numbers, but generally the numbers have not been significant. I will give you some examples. Nike Company——

Senator DODD. How many employees?

Ms. ROBERTS. 2,500, and of course this is a successful company. I think everybody is familiar with that name. With 2,500 employees, they estimated somewhat more than 20 had taken the leave. All have used accrued leave time, including sick leave, and including 5 or 6 male employees. They do not plan to reduce any employee benefits, there was nothing significant mentioned in terms of dislocations. They happen to have a cafeteria plan, but it does not include parental leave per se.

Jansen Corporation, 650 employees, approximately 10 used the leave, used paid leave. They suggest that they do have a cafeteria plan that includes parental leave, but they did not give me details on that. They also do not plan to reduce any benefits.

Floating Point Systems, it is a hi-tech firm, 225 employees, 2 have used it, 1 coming up, and no problems they mentioned.

Columbia Plywood is a smaller company, 360. I asked if you could estimate how many employees had taken leave and they said no, they just are not tracking that and they do not plan to reduce benefits.

A hospital in the Portland area and a Eugene medical clinic were also contacted. These are areas where we would expect, because of the nature of the workforce, there would be high use, and in fact there is. The one hospital with 3,137 employees, 150 to 200 have used sick leave, and they have used accrued paid leave, but they indicated that they have not planned to reduce any benefits, have not and in fact they had already anticipated the need for this and had some plans in place that offered some kinds of leave provisions. The other major hospital has 2,200 employees, had provided concurrent parental leave when both employees work for the hospital prior to passage of the law, they changed that so now only one goes at a time, however, at the same time they reduced their vesting period from 10 to 5 years and they did not indicate any problems.

The smaller medical clinic also has had——

Senator **Dodd**. How many people do they employ?

Ms. **Roberts**. I have to——

Senator **Dodd**. These are mostly large operations you mentioned.

Ms. **Roberts**. Well, I will mention some smaller ones. This is Montgomery Ward, 40 employees, they have had 5 take the leave. Again, no plans to reduce benefits.

There is a major health organization with 100 employees, they said they estimated 20, so they obviously are not tracking it that closely if they estimate 20, but they did not see a problem. We asked them for any controversial issues and they said the only controversy has been over-interpreting the eligibility for concurrent leave.

Freightways Company, 3,000 employees, and they said that they had a good corporation policy predating the law and that there were no problems. I can go on and on——

Senator **Dodd**. We get the drift. The smaller firms, is that the case——

Ms. **Roberts**. Here is one, Albertson's, 39 stores, an average of 40, and I asked them about how many use the leave and they said they didn't really track it, it has been a non-issue.

The Eugene Medical Clinic that was mentioned has 430 employees. Again, they have not reduced any benefits. We just did not find any evidence to suggest that there was a major problem and the firms that we surveyed included those with as few as 35 employees. A lot of them were in the 35 to 114 range.

Again, I really think that the reason that is the case is because this is good business practice and a lot of these firms were already moving in that direction. And it is true, as was mentioned, that one of the major concerns seems to be the philosophical one, do not mandate it, we are doing it already, but that does not sound like an argument consistent with the cost factor argument, they are doing it already.

So, I would just suggest that although it has only been in effect for a year, the fact that it is considered such a non-issue in so many areas, that it does not seem to be an uproar over the concept any longer, it is mainly——

Senator Dodd. I gather there was an uproar about the concept when it was going through the Legislature?

Ms. Roberts. Initially, I think I heard some of the same concerns, and I think those concerns are certainly sincerely felt, but they just happen to be not borne out by experience.

Senator Dodd. I thank you for that.

I am just going to ask and put in the record here a series of letters and so forth that have come from leave States, one that sort of underscores what you have said and the others, seven States that have policies, letters from labor unions which asked about benefits programs and from parental leave businesses which also are on the benefit issue. We have surveyed and asked businesses across the country in varying sizes about the benefit package issue, because it is one that I see coming back over and over again, and I appreciate the concern about what people feel may happen in this regard, but based on again what we are gathering from places where the policy exists, we are not encountering any indication that that fear is warranted, and so I will put these letters in the record.

[The material referred to follows:]

Minnesota
Department of Labor and Industry

Labor and Industry Building
443 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-6107
TDD (612) 297-4198

September 22, 1988

Senator Edward M. Kennedy, Chairman
Senate Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Senator Kennedy:

The Minnesota Parental Leave Statute took effect on August 1, 1987.

Since then, the Division of Labor Standards has responded to many inquiries concerning this law from both employers and employees alike.

Not once has the question of reducing other employee benefits to implement this statute ever been raised by anyone contacting this Department.

Sincerely,

Donald G. Jackman

Donald G. Jackman
Director

DGJ:jv

STATE OF CALIFORNIA—STATE AND CONSUMER SERVICES AGENCY — GEORGE DEUKMEJIAN, Governor
DEPARTMENT OF FAIR EMPLOYMENT & HOUSING
1201 I STREET, SUITE 211, SACRAMENTO, CA 95814-2919
TDD (916) 323-6980

September 22, 1988

Honorable Edward M. Kennedy
Chairman, Senate Committee
on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Re: State Pregnancy Leave

Dear Senator Kennedy:

This is in response to your inquiry as to whether California employers have eliminated or reduced employee benefits because of pregnancy disability leave required under California law.

In 1980, California passed a law making it an unlawful employment practice for any employer to refuse to allow a female employee affected by pregnancy, childbirth, or related medical conditions to take a leave for a reasonable period of time not to exceed four months. An employer is not required to provide a paid leave, other than permitting an employee to utilize any vacation or sick leave credits.

In the eight years that the California Department of Fair Employment and Housing has been enforcing this law, the Department has not received any complaints alleging that an employer has eliminated or reduced other employee benefits because of the enactment of the foregoing pregnancy leave requirement.

If you need further information on the California Fair Employment and Housing Act, the Department will gladly provide it.

Sincerely,

Talmadge R. Jones
Director

TRJ:km

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Labor
OFFICE OF THE DIRECTOR
220 Elmwood Avenue
Providence, Rhode Island 02907

September 29, 1988

Senator Christopher J. Dodd
United States Senate
Committee on Labor and Human Resources
Washington, DC 20510

Dear Senator Dodd:

Regarding the letter of September 23, 1988 from Jackie Ruff on the R. I. Parental Leave law, please be advised that there is no trade-off of employees' benefits for any provision in the parental leave law, nor has there been any such trade-off in order to obtain passage of this law.

If I may be of any further assistance, please feel free to contact me.

Very truly yours,

Armand D'Iorio
Chief of Legal Services

AD:dt

BUREAU OF LABOR AND INDUSTRIES
Mary Roberts, Commissioner

September 23, 1988

Honorable Edward M. Kennedy
U.S. Senate
Washington, D.C. 20510-6360

Honorable Christopher J. Dodd
U.S. Senate
Washington, D.C. 20510-6360

Dear Senators Kennedy and Dodd:

I am pleased to respond to your letter of September 22 on Oregon's parental leave law. My agency was given the responsibility for enforcement of parental leave. We also wrote the administrative rules implementing the statute.

BACKGROUND

The 1987 Oregon Legislature enacted the parental leave bill, effective Jan. 1, 1988 (Chapter 319, Oregon Laws 1987). The legislation provides up to 12 weeks unpaid leave following the birth or the adoption of a child under the age of 6 years. Both mothers and fathers of covered employers--those companies and governmental entities with 25 or more employees--are eligible, but not concurrently. The mother could take the first six weeks following the birth or adoption of a youngster, and the father the remaining six weeks.

Although the leave is unpaid, an employee is entitled to use other accrued paid leave during parental leave, including sick leave.

Upon completion of the leave the employee must be reinstated in his or her old position at the same work site, unless that position has been abolished. The employee then must be offered an equivalent position (same pay, similar duties and responsibilities).

IMPACT ON OTHER COMPANY BENEFITS

In your letter you ask the following question: "In your experience with parental/medical leave, has it become necessary for employers to limit or reduce previously available benefits in order to offer the parental/medical leave benefit?"

PORTLAND
1400 SW 5th Avenue
Portland, Oregon 97201

SALEM
3865 Wolverine St. NE; E-1
Salem, Oregon 97310

EUGENE
165 E. 7th Street, Suite 220
Eugene, Oregon 97401

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Coos Bay, Oregon 97420

BEND
1230 NE Third, Suite A244
Bend, Oregon 97701

PENDLETON
700 SE Emigrant, Suite 240
Pendleton, Oregon 97801

AN EQUAL OPPORTUNITY EMPLOYER

My staff compiled at random a list of employers in Oregon and posed the question. We also asked how many employees had taken advantage of the Oregon parental leave law, and the total number of employees at each firm. In addition, we surveyed personnel consultants in the Portland area who represent smaller companies.

In Oregon about 11.5 percent of the private employers come under the law because they employ 25 or more full-time and part-time employees. The 11.5 percent account for 70 percent of the work force. We estimate that we talked to personnel managers of companies employing an estimated 34,500. (I want to stress our sample is not statistically valid because we did not employ a random selection process.)

We surveyed companies throughout the state, concentrating on the Portland metropolitan area but also including businesses in Eugene, the state's second most populous city; Salem, the state capital, and in Eastern Oregon where the population is small. In addition, we included firms with corporate headquarters in other states.

In addition to direct contact with company personnel managers, we talked with about six insurance brokerages which specialize in employee benefits packages. (We have no estimate how many employees they represent.) They agree the parental leave law has had no effect on employee benefits offered their clients. Whatever reductions or adjustments employers are making are motivated by rising costs, primarily for health benefits.

The results were heartening. Virtually every company surveyed had not reduced other benefits because of parental leave; on the contrary, many had increased fringe benefits since Jan. 1 when the law went into effect.

One surprising finding was the fact two or three firms already had a parental leave policy prior to passage of the state law. Perhaps the most generous was Pacific Northwest Bell (now US West) in Oregon and Washington. The utility grants six months parental leave with a guarantee the employee will be returned to his or her old job. With passage of the state law, it expanded its plan to include adoptions yet continued the six months leave period even though state law mandates a maximum of 12 weeks.

A spokesman said US West plans to bring the 14 states in the Western region under the same leave provisions available to employees in Oregon and Washington. Another Portland-based company, ESCO, an electronics firm, with 900 employees in Oregon and 680 in other states expanded its parental leave to include those workers outside Oregon. However, according to the personnel manager, the average age of employees is 46 so "it's not a big issue with us."

A Portland area hospital (2,200 employees) had provided concurrent parental leave if both employees worked for the hospital prior to passage of the state law, but rolled that back to conform to the state law allowing only one covered employee to take leave at a time. At the same time, it reduced its vesting period from 10 to five years.

Among the comments:

--"(Parental leave) is not an inconvenience. It is working well." Personnel manager for a Japanese electronics firm.

--"It's working just fine." Manager of a Portland hotel.

--"No reduction in other benefits. We just assume parental leave is an additional benefit." Personnel manager, Eugene municipal utility.

--"It's caused some dislocation, but that is more than offset by the improvement in employee morale." Manager, potato processing plant, Ontario.

--"We were struck over salary and benefits, but parental leave was never a rationale in justifying our (benefits) package to the union that included rollbacks in several areas." Personnel manager, Willamette Valley wood products company.

CONCLUSIONS

Based on the Oregon experience, I am somewhat surprised that the issue in the federal debate is a taking away of other benefits should Congress mandate parental leave. That has not been the experience here, based on this survey and our contacts with the business community through the Bureau's Technical Assistance Unit which conducts seminars on parental leave and other employment law. Nor was it an issue during legislative debate.

To date the Bureau has received only about 15 complaints involving parental leave, all of them challenging their respective company policy denying new parents the use of paid sick leave during parental leave.

I hope this information is of help to you in the upcoming debate on the bill. The law is working in Oregon. I believe it will work nationally, and I wish you success in the Senate.

With warm regards,

Mary Wendy Roberts

Mary Wendy Roberts
Commissioner

MWR/dj

ARIEL CAPITAL MANAGEMENT, INC.
307 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601, 312/726-0140

September 22, 1988

The Honorable Senator Edward Kennedy
United States Senate Committee on
Labor and Human Resources
United States Senate
Washington, D.C. 20516

Dear Senator Kennedy:

I understand there have been certain allegations from those opposing the parental leave legislation that the enactment of this bill would necessitate a "trade-off" of other employee benefits.

In response to these allegations, I must say that this has not been my experience at Ariel Capital Management, Inc., a small company which employs nine full-time workers. In fact, quite the opposite is true. The adoption of a parental leave policy was part of an overall effort by the company to enhance the benefits offered to its employees, thereby enhancing employee-employer relationships, strengthening the employees' sense of loyalty, increasing worker productivity and reducing employee turnover. In addition to offering a parental leave, my employer is in the process of opening up to all of the employees an Employee Stock Option Plan funded totally by the corporation and an Employee Profit Sharing Plan. We also maintain life insurance coverage, hospital, medical and disability benefits, all totally funded by the company.

It is my opinion (and fortunately that of my employer as well) that an employee who feels that the skills and services he or she offers in the workplace are valued, will in turn feel that he or she is valuable. It only follows, that such a worker will be more inspired, more dedicated and more committed.

Sincerely,

Darice Wright

Darice Wright
Concerned Citizen, Wife,
Mother, Senior Vice President

Communications Workers of America (AFL-CIO, CLC)

Barbara J. Easterling
Executive Vice President
202-728-2344

50 YEARS
the union makes us strong
CWA

September 23, 1988

File: 1.14

The Honorable Christopher Dodd
Chairman
Senate Labor Subcommittee on Children,
Family, Drugs & Alcoholism
639 Hart Senate Building
Washington, D.C. 20510

Dear Mr. Dodd:

The Communications Workers of America strongly supports the Family and Medical Leave Act, S. 2488. We believe -- based on our experience with negotiated leave benefits -- that these provisions are extremely helpful in reducing work and family conflicts and as a result aid both worker and employer.

Some in Congress are concerned, however, that the existence of parental and medical leave benefits will undermine or reduce other benefits for workers. In our experience, this simply is not true.

We have had negotiated parental and medical leave benefits covering more than 500,000 workers since 1979. In the decade since gaining these protections, we have not only maintained but expanded other employee benefits such as pensions, health care, education and training assistance, child care and the like. While each negotiated contract may not have had identical benefit improvements, preservation of parental leave while at the same time expanding other benefits has been uniform.

Further proof that parental leave in no way jeopardizes worker protection can be found in the fact that we have never faced a serious effort to reduce parental leave benefits through concession demands. I wish that we could say we've never faced such demands *per se*, given that our members' employers are profitable. But while we have had stiff fights over misplaced efforts to reduce wages or other benefits, parental leave has not been an issue. Perhaps more important, we have never faced claims that preservation of parental leave is what necessitates attempted cutbacks in other benefits. The two issues simply are not connected.

1925 K Street, NW

Washington, DC 20006

202-728-2300

I cannot stress enough that both we and our employers generally have found the parental leave program to be successful. Indeed, some of the companies with which we negotiated these provisions have endorsed parental leave legislation.

As you can see from our experience there is little need for concern that parental and medical leave benefits will undermine other employee benefits.

Sincerely,

Barbara J. Easterling

Barbara J. Easterling
Executive Vice President

SERVICE
EMPLOYEES
INTERNATIONAL UNION, AFL-CIO, CLC
1313 L STREET N.W. • WASHINGTON, D.C. 20005 • (202) 898-3200

JOHN J. SWEENEY
INTERNATIONAL PRESIDENT

RICHARD W. CORDTZ
INTERNATIONAL SECRETARY-TREASURER

September 23, 1988

Dear Senator:

The Service Employees International Union's 850,000 members are in firm support of the Parental and Medical Leave Act of 1988, S. 2488. This bill would legislate an affordable benefit for America's changing workforce and would assist workers in meeting the twin challenges of career and family.

SEIU is the largest union in California and also has over 190,000 members in New York--states that have temporary medical disability or minimum parental leave programs in place. In these states, even during the most difficult collective bargaining negotiations, employers have never asked for cutbacks in other benefits such as health insurance, sick leave, or pensions to pay for state mandated family and medical leave programs.

Yet, opponents of S. 2488 state that if this basic workplace standard is enacted, employers will have to reduce other benefits which they now provide. SEIU's experience with collectively-bargained flexible benefit plans has shown that the cost of providing unpaid parental and medical leave is nominal and is never considered a choice for which another benefit must be forfeited.

Employers provide benefits ranging from health insurance to paid holidays. In 1987, the Bureau of Labor Statistics estimated employer costs for all benefits to be $3.60 per hour, or $7,488 per year. The U.S. General Accounting Office estimated the cost to employers of providing unpaid parental and medical leave under S. 2488 to be $3.50 per worker per year.

The attached chart compares the cost of providing unpaid parental and medical leave to a host of other employee benefits. Clearly, the annual $3.50 per worker price tag of unpaid family leave is dwarfed by $2,333 for legally required payments, $1,762 for pensions, and $1,604 for health insurance coverage. This is certainly a small price to pay so that America's workers can return to their job after parental leave or an extended illness.

Moreover, a minimum family and medical leave standard will reduce employee turnover, enhance worker loyalty, allow parents to be with a new child, and relieve an added burden on a person who must take a temporary medical leave.

Sincerely,

John J. Sweeney
International President

attachment

JJS/rr
opeiu#2
afl-cio

AFSCME®
American Federation of State, County and Municipal Employees, AFL-CIO
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Columbus, Ohio

Edward H. Sasso
New Britain, Conn.

Buhman D. Smith
Philadelphia, Pa.

Linda Chavez-Thompson
San Antonio, Tex.

Garland W. Webb
Baton Rouge, La.

September 23, 1988

The Honorable Christopher Dodd, Chairman
Subcommittee on Children, Family, Drugs
  and Alcoholism
United States Senate
Room 444 Russell Senate Office Building
Washington, D. C. 20510

Dear Mr. Chairman:

The American Federation of State, County and Municipal Employees (AFSCME), a union representing 1.1 million state and local government employees, strongly supports S. 2488, the Parental and Medical Leave Act of 1988. AFSCME members work at all levels of government with many working for small municipalities and school districts.

Our experience in negotiating maternity and family leave provisions in collective bargaining contracts belies the contention raised by opponents of ~~S. 2488 that~~ the bill that employers will take away other benefits when required to provide parental and medical leave. In fact, while we must often fight hard for a wage increase and resist employer demands to cut back important contract protections, parental leave simply has not emerged as a major employer concern as we would expect if it was a major expense or was causing serious disruptions in operations. We would suggest this is a major reason why one of our major employer groups, the National Conference of State Legislatures, has endorsed the legislation.

Twenty states currently have either maternity leave or parental leave laws. In none of these states have employees experienced cutbacks in other basic workplace benefits. Instead, the number of employers adopting pro-family employment policies has dramatically increased in each of the covered jurisdictions.

In 1978, when Congress was considering the Pregnancy Discrimination Act, it is worth recalling that opponents argued that if employers were required to include pregnancy in their disability policies, many employers would drop disability coverage for their employees. Instead,

in the public service

disability coverage has increased with 95 percent of employers currently providing disability coverage for their employees. Now, ten years later, the very groups which opposed the Pregnancy Discrimination Act are making the same unfounded arguments concerning S. 2488.

Sincerely,

Jerry D. Klepner

Jerry D. Klepner
Director of Legislation

JDK/mhg

227 Church Street
New Haven, Connecticut 06506
Phone (203) 771-3434

Jeanne F. Kardos
Director - Employee Benefits

Southern New England
Telephone

September 21, 1988

The Honorable Edward M. Kennedy
Chairman, Senate Committee on Labor and Human Resources
Washington, D.C. 20510

Dear Senator Kennedy:

It is my understanding that the Parental and Medical Leave Act will be debated on the Senate floor in the near future. I have been following the progress of this legislation with considerable interest since I testified on behalf of the bill before Senate and House Subcommittees in 1986 and 1987.

One issue which seems to be getting a great deal of attention is the notion that mandation of parental leaves will be so costly that it will force employers to eliminate other employee benefits.

This position puzzles me. As I recall, the General Accounting Office estimated that the cost of this legislation to employers was approximately $194 million. If you divide that figure by the total number of employees covered by the bill, the cost per employee per year is approximately $3.50. Even if the GAO were off by 100%, which is certainly unlikely, the annual cost per employee would be $7.00.

As the benefits administrator for my company, I can tell you that we spend over $11,000 per employee per year on benefits including health, pensions, savings, disability, life insurance, vacations, holidays and social security payments. This represents over 30% of payroll and is not at all unusual for companies in this country. I cannot imagine another benefit that we could provide for $3.50 a year that could be traded off to offset the cost of providing parental leaves.

Senator Kennedy, it seems to me that the cost of providing parental leaves is so small that it cannot possibly raise significant objections. I think that the real objection is to the mandate itself. While it is certainly understandable that American employers object to a government mandate, it is my opinion that parental leaves will never become a widespread reality without it.

Sincerely,

Jeanne F. Kardos

Copy To: The Honorable Christopher J. Dodd

FEL-PRO®
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September 23, 1988

Senator Ted Kennedy
Chairman, Senate Committee on Labor
and Human Resources
U.S. Senate
Washington, DC 20510

Dear Senator Kennedy:

Our manufacturing company, which employs over 2,000 employees in the highly competitive automotive market, has a policy which exceeds the requirements in the Family and Medical Leave Act.

From our experience, very few of our employees, less than 1% at any moment of time, use leave for the purpose intended in the Family and Medical Leave Act. The bottom line in the Act is only those who need it will use it since it is an unpaid leave.

It is an inexpensive policy which reduces serious tensions between employees and employers when family needs demand time off from the job. Our leave ~~policy in no way has resulted in~~ cutbacks in employee ~~benefits. In fact, our record will show our company has continuously~~ expanded benefits to our employees.

Good luck, Senator, in your efforts to provide this essential people-sensitive legislation.

Sincerely,

Robert C. O'Keefe

Robert C. O'Keefe
Vice President, Industrial Relations

lc

Fel-Pro Incorporated, 7450 N. McCormick Blvd., P.O. Box 1103, Skokie, Illinois 60076-8103, U.S.A.
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ALAN M. O'GRADY, D. D. S.
36 CONANT STREET
DANVERS, MASSACHUSETTS 01923

TELEPHONE (617) 777-1670

September 23, 1988

The Honorable Christopher Dodd
United States Senate
324 Hart Senate Office Building
Washington, D.C. 20515

Re: The Family and Medical Leave Act, H.R. 925

Dear Senator Dodd:

We would like to express our strong support for the Family and Medical Leave Act, H.R. 925. Our office policy has always provided for family and medical leave and the cost for carrying health insurance is minimal because of the lower cost of group coverage.

Passage of this bill would protect the jobs of parents when leave is taken to care for a newborn or seriously ill child. This bill would not force employers to reduce other benefits, nor would they be forced to choose benefits.

We strongly feel this vital legislation is needed for a strong and stable family. At a time when the family is at risk from a variety of sources, it is imperative that our nation and our community take an active role in pro-family legislation.

The Family and Medical Leave Act is a reasonable and fair bill which would assure our valued workers who take leave that their jobs are secure. Work and family can be a stressful responsibility and we need to provide workers with peace of mind and a time for bonding and nurturing with their young.

Our policy to provide family and medical leave has resulted in a strong and productive business and has been a great morale builder. It has also provided us with excellent public relations in the community.

We ask your support for passage of this vital legislation.

Very truly yours,

Alan M. O'Grady

Brendan L. Hoyt, Jr.
Attorney at Law

200 Haven Street
Reading, Massachusetts 01867
(617) 942-0660

September 23, 1988

The Honorable Christopher Dodd
United States Senate
324 Hart Senate Office Bldg.
Washington, D.C. 20515

Re: Family and Medical Leave - HR 925

Dear Senator Dodd:

Passage of the Family and Medical Leave Act is a positive response to the economic realities of the changing workforce. This legislation is needed to relieve workers of stressful conditions and to provide them with job protection.

We provide benefits for our workers at minimum cost on group plans. Therefore, it would not be costly for business to continue health benefits during the period of leave.

The Family and Medical Leave bill would not force employers to eliminate any other benefits nor would they have to choose benefits.

Existing labor standards are inadequate to meet the needs of today's working parents. It is important that we provide our workers with job security when taking leave to parent.

This bill is good for business and business is ready for it. The time is now and we ask your support for its immediate passage.

Sincerely yours,

Brendan L. Hoyt

Brendan L. Hoyt, Jr.

TRAVIS
Associates Inc.

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223 Middlesex Turnpike
Burlington, MA 01803
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Divisions: Travis Personnel
Travis Temporary Services
Subsidiary: Travis Technical Services, Inc.
Division: National Services

September 14, 1988

The Honorable Christopher Dodd
United States Senate
324 Hart Senate Office Bldg.
Washington, D.C. 20515

Re: Family and Medical Leave Act. H.R.925

Dear Senator Dodd:

I am a business owner and a member of the Massachusetts Business and Professional Women's organization.

My business is a placement service which provides permanent and/or part time employment for men and women in Massachusetts.

I fully support the Family and Medical Leave Act, H.R.925, and feel strongly that my business would benefit greatly with the passage of this bill. It would assure my employees that when leave is taken to "parent" or for serious illness, their job would be secure. This would be a tremendous savings in re-hiring and training expenses.

I value my loyal, trained and experienced personnel and want them to return to their jobs. The cost of continuing health insurance is minimal. During this period I would hire temporary help. My staff has always been willing to take on additional duties when time is needed to attend conferences, vacation time and during sick time.

Business is ready for the Medical and Family Leave Act and I urge your support on this bill at this time.

Sincerely yours,

Diane M. Stack

Diane M. Stack

DONALD BROWN
DBA Killough's Auto Service

6001 Fourth N.W.
Albuquerque, NM 87107

Phone
(505) 345-0085
(505) 345-6401

September 18, 1988

Senator Chris Dodd
324 SHOB
Washington, C.D. 20510

Dear Senator Dodd:

I would like to express my support for S. 2488 bill. We currently have a parental leave policy at our small business and have been very pleased with the outcome.

We even grant fathers leave (paid) upon the birth of a child. One mechanic, who's paid mostly by commission, took two paid days off and with the remainder of the week his production level was so high - he had one of his best ever paychecks.

We are a very small company, but we are doing very well and are currently in the process of looking at other locations to expand.

Thank you for your effort on this bill.

Yours truly,

Brenda Brown
DBA Killough's Auto Service
6001 4th St., N.W.
Albuquerque, NM 87107

Cranberry Travel
& Cruise Center
727 Chestnut Ridge Road
Suite
Morgantown, W. Va. 26505
Telephone (304) 598 0160

Sept. 21, 1988

Senator Chris Dodd
324 SHOB
Washington, D. C. 20510

Dear Senator Dodd:

I am writing to voice my concern over parental leave policies of big businesses.

As owner and operator of three small travel agencies over the past 12 years, I have been faced with every conceivable personnel problem. At present, I own a travel agency in Massachusetts and one in West Virginia, and employ a total of 12 persons.

Last summer, I had 2 pregnant women working for me. One was due in June and the other in July. Both women were premitted to work as long as they felt comfortable. (One left the office to go into the delivery room.) Once they had their babies, they both were out of the office for 6 weeks. I paid them both their salaries for 4 weeks.

In July of this year, I had another female employee whom I permitted a leave of absence for elective surgery for fertility reasons.

This did not prevent my being able to offer them other benefits. In fact, this has produced unbelievable loyalty from my employees and morale is very high in our offices.

In addition, I have offered employees flex time. If they need time off for sick children or other reasons, they make up the time on the other end without penalty.

I feel that other businesses should look at their employees as human beings, should realize the importance of family and realize that these people are their biggest assets.

Thank you for allowing me to express my feelings on parental leave.

Sincerely yours,

Sharon F. Silva

Sharon F. Silva, CTC

ALAMEDA FAMILY SERVICE AGENCY
746 Eagle Avenue, Alameda, California 94501 • (415) 521-4151

September 19, 1988

Senator Chris Dodd
United States Senate
324 Shols
Washington, D. D. 20510

RE: Support of Parental Leave Legislation.

Dear Senator Dodd:

As an employer of ten therapists and four Administrative employees, we have had a parental leave policy in effect for two years.

We feel positive about the effect on the morale of our staff and can report that it has neither been abused by our employees nor caused a fiscal or staffing hardship.

Please continue your good work on this issue.

Sincerely,

Carol B. Layton

Carol B. Layton,
Executive Director

CBL:pnb

Rocky Ford Daily Gazette

P.O. Box 430, Rocky Ford, CO 81067 Ph. (303) 254-3351
Published Daily Except Saturdays, Sundays & Holidays

September 22, 1988

United States Senator Christopher Dodd,
324 SHOB
Washington, DC 20510

Dear Senator Dodd,

This letter is to commend you for your support and sponsorship of the Parental and Medical Leave Act, S.2488.

While we have had a policy of allowing our employees to take parental leave for some time, this past year we had two employees who did so.

Our policy includes continuing to pay the employees insurance, a benefit which we offer to all of our staffers, and welcoming them back in their same position when they are ready to return.

The Daily Gazette is a small five-day daily newspaper, and we have only 15 employees, of whom 10 are full-time and five are part-time. We have found over the years since we adopted this policy that it has been satisfactory for both The Daily Gazette and our employees.

It seems to me that other small businesses should be encouraged to provide similarly for parental leave.

Thank you for sponsorship of this Act and best wishes,

Cordially,

Anna M Thompson

Publisher
Rocky Ford Daily Gazette

For the record, we are a corporation: Rocky Ford Publishing Co., DBA Rocky Ford Daily Gazette, and our federal number is 84-0436281

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September 19, 1988

The Honorable Christopher Dodd
324 Hart Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Dodd:

A family and medical leave policy which has the employees' concerns addressed is a really fine way to build employee loyalty. Although my small business has for the past twenty years employed mainly male workers, each employee receives one week of paid leave for the birth of a child and has the option of several more weeks of unpaid leave. Additionally, paid vacation time can be used to extend the time off should the employee so desire. Ill workers are also afforded job protection for a reasonable length of time

Dealing with children's illnesses often causes a problem for families. This should be taken into consideration when leave policies are set. Our business provides flex-time possibilities so that workers can continue at least in a part-time capacity without total loss of income.

In the past, employees have been given leave time for national guard or military reserve duty. To me, the family is just as important as defense, perhaps more so. Any employer who sincerely cares about a productive and loyal workforce should support the family and medical leave legislation now pending.

Sincerely yours,

Mary Powell

Mary Powell

STEVE & HULSING
Certified Public Accountants

LINDA M. STEVE, CPA
ROENE J. HULSING, CPA
CAROL A. ROGNE, CPA

25 FIRST AVENUE WEST
DICKINSON, ND 58601
TELEPHONE 701-225-1842

September 16, 1988

Senator Christopher Dodd
324 SHOB
Washington, D.C. 20510

Dear Senator Dodd:

RE: Parental and Medical Leave Act (S.2488)

As a small business owner, I am writing to you to let you know that I support Senate Bill 2488. There are many reasons why I feel that such an act is important but, most of all, it is because I feel that happy employees are more productive, more loyal, produce happy clients and in the long term increase a company's financial picture. I am convinced that such a bill will make employees happy because the care of a loved one is foremost in most people's lives and knowing that their employer is supporting that care is important to them.

Let me tell you a little about our firm. There are a total of five people (including myself) and all of them are women. All of us have at least one child and one has three. The ages range from a newborn to fourteen. The newborn is the child of a secretary who was born on September 4, 1988. This secretary has not yet returned to the office and we are allowing her to tell us when she is ready.

I am sure you are aware that women are traditionally the care givers in their families. As an employer I feel that flexibility is the key. One needs to allow their staff time in which to take care of a sick child or parent, take their child to their first day of school and the like. I myself take my four year old daughter to nursery school one day a week. That way she knows that I support her and her desire to show off the environment in which she can thrive. As an employer I feel that I should not ask an employee to do something I myself will not do. Also an employer should not give the impression that she can do something that an employee is not allowed to do because they are only the "employee".

No, it is not easy when their is a "gap" within the structure of a firm, but we can all manage. Everyone is expected to pick up the slack because everyone else does the same for them. Since September 4th, the birth of the baby, I myself have typed this letter, copied reports, bound reports, answered the phone, ran errands and done numerous other things that are typically done by the secretary. Certainly if a firm of five people can cover for each other a firm of 20 to 40 should be able to. I agree that we are fortunate that the birth came during a slower time of the year and not during tax season, but we would have managed either way.

I certainly am not saying that I am the greatest employer or that my opinions are always correct. I do know that since I started my own firm in January of 1984 I have not had any employees leave my employ. We have a friendly environment that is enjoyed by our clients as well as the staff. Even as the employer I feel good knowing that the respect my employees have for me will not be tarnished because I choose to put my loved ones above the office at times.

Please give Senate Bill 2488 your full consideration and thank you for allowing me to express my opinion on this matter.

Sincerely,

Linda M. Steve

Linda M. Steve

Philip J. Laven & Associates, Inc.

September 16, 1988

Senator Chris Dodd
324 Shob
Washington, D.C. 20510

RE: Parental Leave

Dear Senator Dodd:

As a small company of 15 employees we recognize the importance and value to us of each of our employees.

As a part of our "employees benefits" program we do offer parental leave as a way of saying "we understand" and "do want you back."

While the economic strain in certain types of smaller companies might make this kind of leave cost prohibitive, I do believe that larger companies have the number of employees and flexibility to provide this kind of job protection during times of unforseen circumstances.

I hope that what our small company in West Texas is doing will help in your efforts with Congress.

Sincerely,

Skip Laven
Vice President

6416 Gateway East / El Paso, Texas 79905 / (915) 772-0934

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September 16, 1988

Senator Christopher Dodd
324 SHOB
Washington, DC 20510

Dear Senator Dodd:

Our manufacturing company which employs over 2,000 employees highly supports passage of the Family and Medical Leave Act.

Our present policy exceeds the requirements in the Family and Medical Leave Act. From our experience, such legislation will reduce the serious tensions between employees and employers when family needs demand time off from the job. We feel such legislation creates a motivated work force, which is so essential in today's competitive world. The bottom line in the Family and Medical Leave Act is only those who need it will use it since it is an unpaid leave.

You are to be complimented in supporting this people-sensitive legislation.

Sincerely,

Robert C. O'Keefe

Robert C. O'Keefe
Vice President, Industrial Relations

lc

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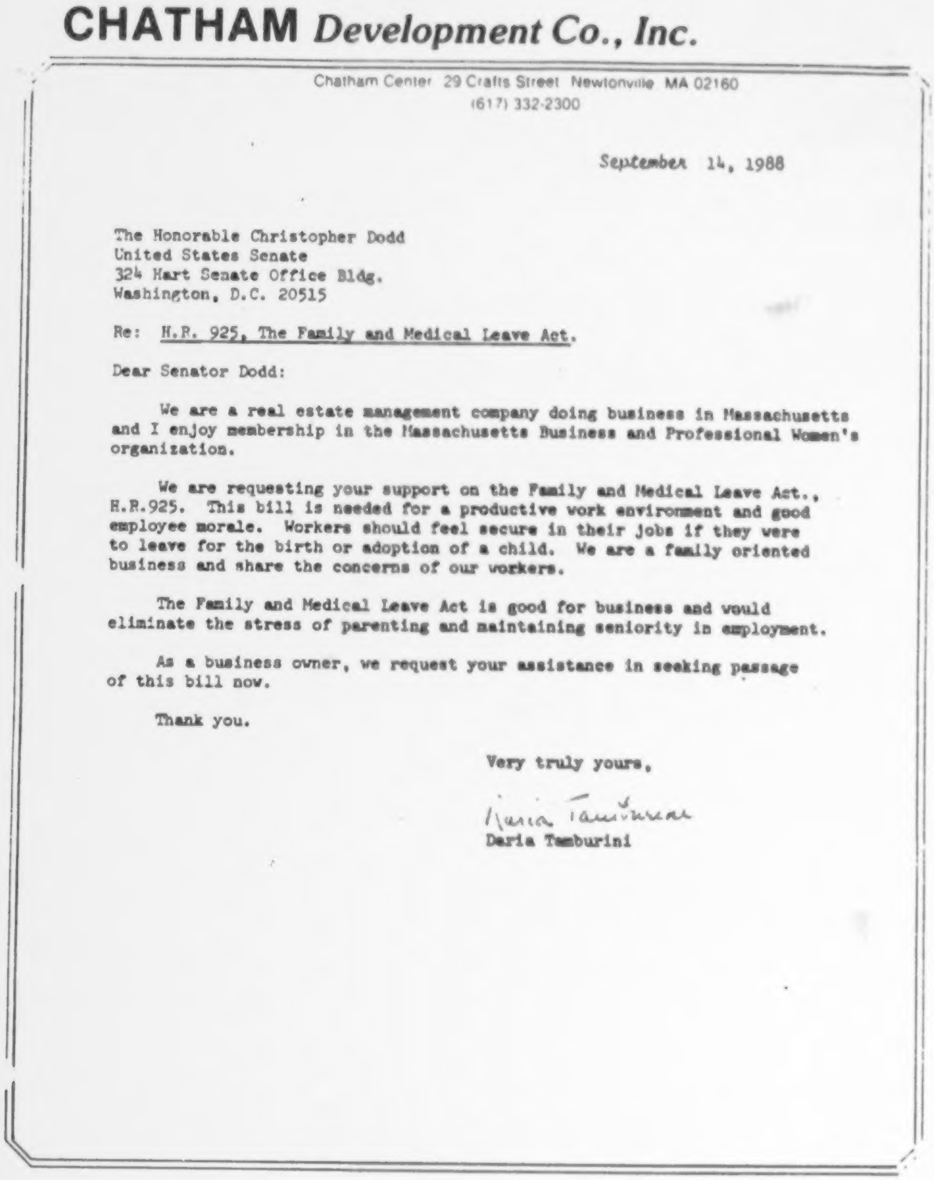

CHATHAM *Development Co., Inc.*

Chatham Center 29 Crafts Street Newtonville MA 02160
(617) 332-2300

September 14, 1988

The Honorable Christopher Dodd
United States Senate
324 Hart Senate Office Bldg.
Washington, D.C. 20515

Re: H.R. 925, The Family and Medical Leave Act.

Dear Senator Dodd:

We are a real estate management company doing business in Massachusetts and I enjoy membership in the Massachusetts Business and Professional Women's organization.

We are requesting your support on the Family and Medical Leave Act., H.R.925. This bill is needed for a productive work environment and good employee morale. Workers should feel secure in their jobs if they were to leave for the birth or adoption of a child. We are a family oriented business and share the concerns of our workers.

The Family and Medical Leave Act is good for business and would eliminate the stress of parenting and maintaining seniority in employment.

As a business owner, we request your assistance in seeking passage of this bill now.

Thank you.

Very truly yours,

Daria Tamburini

Senator DODD. I apologize to my colleague. I went a bit longer than I intended.

Senator COATS. That is all right. I am going to be very brief because I am very late for an appointment that I have at 12:30, but I will just ask a couple of questions here.

It seems to me that some of the distinctions and some of the problems that we have stem from the need for providing employers with the necessary flexibility to make some decisions.

Jeff, I do not doubt that you obviously are a compassionate employer. I commend you for it. You are the kind of employer that everybody wants to work for, you are sensitive to the needs of your employees, and so forth. You may be in a position financially to be able to do that. I am concerned, though, that a mandated, across-the-board approach wherein everyone who falls in the category must do it puts the squeeze on some employers to the point where it results in them not hiring the kind of people who are looking for jobs, especially women of child-bearing age. It might lead to an employer saying: "This position that I would like to advance this person to is such a key position that I cannot afford to have her walk in without much notice and say I have got to be off for 10 weeks. I am willing to sit down with that person and try to work something out and try to be flexible."

Now, you may have the kind of business where your 20 employees are interchangeable and they can pick up on another job, or you can call Kelly Girl and they can provide someone to come in and fill the gap. But what about the small employer that has the kind of business where he has a key computer operator that is absolutely essential to the operation of the business? Or a construction business where an employer has some key foremen or supervisors, without which the project cannot go forward and he has signed a contract guaranteeing completion by a certain date?

I was concerned about your statement that we should not exempt key employees. I am worried about Pat Ashley's hospital, Methodist Hospital in Indianapolis, and we all know what a tremendous nurse shortage there is. If you have problems, Pat, at Methodist, which I think is the biggest hospital in Indiana——

Ms. ASHLEY. Correct.

Senator COATS [continuing]. And you are facing cost pressures, consider the problems at smaller rural hospitals that are coming to me every day, saying they do not even know if they can keep their doors open, given the current problems they have. You know, they tell me not to mandate on us another policy when we cannot find nurses as it is and we cannot find key personnel as it is. Give us the flexibility, give us an incentive, because family leave is a desirable policy. I know very few employers that are going to say, "I don't care who's sick. I don't care who has a baby. I don't care who's mother is dying of cancer. That person is not leaving, and if they leave they don't have a job back." If those employees have any value to that company and I assume they do or they would not have been hired in the first place employers want the prerogative to sit down with these employees and saying "Let us see what we can work out." It is that flexibility, particularly as it impacts on small business, that I am talking about.

Commissioner Roberts, I do not doubt that Montgomery Ward and Nike and U.S. West and these major companies can accommodate a mandated policy, because of the size of the organization, because they have accounting functions in New York and a central office in Indianapolis, so they can absorb these benefit costs to a much greater degree than a small businessman who is trying to take his company from 50 to 100 employees or has just signed a big construction contract that is going to allow him to go out and add 100 new employees, half of them minorities, or a small businessman who is bringing women into the workforce.

I guess this is the key distinction. Is it proper for us to sit here in Washington and say we all agree, it is a desirable policy, it is something that is beneficial to families and we all certainly want that, but so we must set the standard and say you must do thus and so, taking away the employer's flexibility and overriding the employer-employee negotiation process? I guess that is my concern, particularly as it impacts small businesses. We should pay attention to this because it is small businesses that, by far, generate most of the new jobs.

Ms. ROBERTS. Senator Coats, I would agree that flexibility is important and I think that the Oregon law has some provisions that I think enhance that, but so does the Federal law. They are different provisions and you may want to look at those, but I believe that, just as the civil rights laws helped employers to be more rational in employment practices and ultimately benefiting their business by meaning that they would hire the best qualified employee, regardless of race, regardless of sex, that so are well constructed flexible family and medical leave bills, can also encourage employers to move in the direction that they must.

Senator COATS. If I could interrupt, you are using the key words there I think are important. You say we can "encourage" employers. We are not encouraging employers with this mandate. We are saying you have got to have parental leave or you violate the law if you do not. That is not encouraging, and that is I guess why my approach, which is to encourage by offering incentives—a carrot approach rather than the stick—I think is helpful in providing paid leave. I assume your law is unpaid leave?

Ms. ROBERTS. It is unpaid, but there is the provision that the employee may use vacation time, other compensatory leave time and accrued sick leave for purposes of parental leave, and they have been utilizing that.

Senator COATS. Most employers would do that, and I assume that time would be available in any case, without a change in the law. But would it not be better to have an incentive policy that allowed for paid leave time? Another concern, that I have not mentioned earlier, was that unpaid mandated parental leave, for the most part, leaves out all those people who do not have the money in the bank or fall in a lower income category so that they do not have the luxury of taking unpaid leave.

What about the single mother that is in the workforce? What about the low-income family that could not possibly take 10 weeks leave. Would it not be better to offer an incentive to the employer to provide paid time off, especially for the low-income employee?

Ms. ROBERTS. I would simply suggest that, as with the civil rights legislation, that you have to establish a minimum expectation for compliance with the law.

Senator COATS. Is this a civil rights issue that we are talking about?

Ms. ROBERTS. Yes, I believe it is.

Senator COATS. I see.

Ms. ROBERTS. And I do think that in fact there is nothing wrong with offering incentives, but I think you have to establish a minimum standard for people to comply with, and I think that is the approach that has been successful in the past and I think it has worked in Oregon and I would——

Senator COATS. I am rushing you because my time is so short. If you believe that it is a basic civil right that every employee should be able to demand time off for a number of conditions, then I understand your position. I guess I would disagree that this is a fundamental civil right. Certainly it is not an area of discrimination in terms of hiring, nor is it a matter of race, religion, sex, or age—what we have traditionally characterized as a basic civil right. To characterize mandated leave as a basic civil right, that ought to be protected by Federal statute, so that someone must be granted time off without the ability of the employer and the employee to negotiate on the matter, seems to me an issue that we have not traditionally placed in the civil rights category. We have always left that to the collective bargaining process, whereby an employee and employee negotiate their benefits.

If I could just move back to Jeff just for one moment, maybe you could respond to my question on the key employee provision. I do not know the makeup of your company, but certainly you would recognize that in some small businesses it would be very difficult for an employer to think in terms of promotion or in terms of hiring a person for a position. An employer just could not call up Kelly Girl and fill a position on a few day's notice. Surely there ought to be some distinction between this and his ability to negotiate time off with the employee?

Mr. CARTER. The only two instances in which I have had to deal and provide this kind of leave in the last year were in both cases for key employees, one man and one woman. The gentleman who worked for me had to deal with a critical and terminal illness of two in-laws and one parent, and a woman who is head of our market research had a newborn baby become seriously ill and hospitalized and she had to deal with that. These were both key people. She is our computer operator that you referred to. She is the only one who could run our data base for us.

Senator COATS. How did you handle that?

Mr. CARTER. That is what I am going to get to. What we did was we sent her home with the computer and we built in the critical operation that she could perform, she designed the solution to our problem. Our situation is not typical.

Senator COATS. Again, flexibility is the key. You sat down and worked something out.

Mr. CARTER. Yes.

Senator COATS. What if she walked in and said, boss, Federal law says I get 10 weeks, I will see you in 10 weeks, and you are left holding the job? What do you do then?

Mr. CARTER. I guess I would sit down with her—I think there is a fairness issue—I would sit down with her and say we might not be here when you get back.

Senator COATS. But does that not argue for flexibility rather than a mandate?

Mr. CARTER. My concern is——

Senator COATS. Does that not underscore John Motley's point that with these new businesses, these startups, it is the fragility of some of these companies that requires that they have the flexibility to negotiate leave individually with the employee, rather than the Federal Government, and we in Congress, saying this is what you have to do?

Mr. CARTER. I think there is a fundamental fairness issue involved in this relationship between employer and employee. I think one of the things that we have to face up to is whether or not we are going to plan for this benefit or whether or not we are just going to react to circumstances as they arise.

I think frankly that the people that work for me——

Senator COATS. Well, would not every good businessman plan for that contingency?

Mr. CARTER. I do not know.

Senator COATS. If I were a businessman, regardless of whether it was mandated or not, I would think I had better plan for emergencies, for this employee not being available, or that employee calling in sick, or an accident or whatever. I mean you have to plan for that or you are probably out of business.

Mr. CARTER. Susan Ditto Hamilton's first employer did not, and I think that is what we are concerned with. It is not the employers who do provide, it is those who do not. My concern is that these are fundamental family issues and the kinds of problems that my employees have had, it does not matter, I would have to provide this. If I did not provide it, I would not be—if I needed to come up—I could not afford to let them go and if I had took a hard position and said I just cannot do it, I do not believe that those employees under those circumstances could have done the job. As a result, when these issues first came up and we looked at it as a matter of policy, that was the first moment we began to plan for it and we were a startup. Startups, by definition, as John mentioned, are under-capitalized, marginal at best. The assumptions you start with in business are not necessarily always right. Sometimes you are right and sometimes you are wrong.

In a startup in particular, we face a problem where we do not necessarily have a model for what it is we are trying to do. We are trying to do something no one has done before. Well, the fact is that in my opinion—again, I think the way you—we planned on providing these expensive benefits. It is a terrible problem for us. Health benefits, medical insurance, this is a tough nut for us to crack, but we planned for it and we survived because we did. I think family leave is a far less expensive benefit to provide. It is a critical and necessary benefit and we can better plan for it.

Senator COATS. What do we say to the employees who say, "I agree, annual leave is a critical benefit," but they list 10 others, and they say, "You, Congress, should force business to plan for these"? The list is endless in terms of desirable benefits. People come before us and say dental care, or psychiatric care, or mental illness is a real problem, and treatment of alcoholism is a real problem, and since some companies do not provide for that, you should write that into law, mandate that they offer that benefit. What if we hand you a list of 50 benefits and say this is the law and this is what you must provide your employees? Do you not see the problems that could arise from that kind of thing? How will we encourage people to start new businesses, to expand their businesses, or cut the costs of business? Do you not think that ought to be part of the marketplace decision, part of the collective bargaining process; and part of the flexibility that is necessary for employers?

Let me ask Mr. Motley—I have gone way over my time here, too—just to comment and then I will stop.

Mr. MOTLEY. I just think that if Senator Dodd's proposal becomes law, you fundamentally change Jeff Carter's situation with the full force of the Federal Government and treble damages, legal fees and everything else coming down on him. He cannot negotiate that solution to his company's problems, and that is really I think one of the major concerns that most small business owners have. They do not disagree with what we are trying to do. They are disagreeing with the proposed solution.

I really do think that his situation that he explained is changed fundamentally, as you pointed out. He is not going to be able to negotiate with that employee. He may not even be able to negotiate with that employee if the employee wants to negotiate, to be able to do that stuff at home on his or her own time.

Senator COATS. Thank you, Mr. Chairman. You have been generous.

Senator DODD. Let me go back to a couple of other criticisms that are raised. First of all, John, let me ask you, you do not have any data to provide us, do you, that in fact benefit packages would be reduced for employees? That is something you fear is apt to happen. Is there any hard data you could give us that proves that that is the case?

Mr. MOTLEY. Well, I do not think there is any hard data, Senator, because we do not have a case to look at, with all due respect to the Commissioner from Oregon. You know, the law is slightly more than one year old, we do not have a history, there are an awful lot of people out there who do not know their rights under the law, usage is going——

Senator DODD. Can you name one business that you know of that has a parental leave policy in place that has reduced its benefit package? Just give me one.

Mr. MOTLEY. But we are not saying reduced.

Senator DODD. Any one business.

Mr. MOTLEY. We are saying supplement or replace one benefit with another.

Senator DODD. Well, I would think then you would be able to name one business for me, to make the case. The case has been made that benefit packages get reduced.

Mr. MOTLEY. I cannot——

Senator DODD. You can estimate all day. Give me one business that has a parental leave policy that has reduced one benefit for employees, one business in the country.

Mr. MOTLEY. I cannot give you one.

Senator DODD. Well, why are we making that case all the time?

Mr. MOTLEY. But Patricia said before that in her situation in her hospital, that they probably would have to.

Senator DODD. Probably. I understand probablies, but we have got a lot of businesses with parental leave policies in this country. Name me one, anybody, that has reduced a benefit package because of parental leave. If that statement—if you cannot provide one business in this country that has reduced that benefit package by one benefit, then I do not think you ought to be making that statement, in all fairness. I do not mind being criticized, but to tell me what is likely to happen—you have got hundreds of businesses in this country that have parental leave policies. Pick any one you want, any one you want, but name me one, and there is not one. So should we not put that argument aside?

Mr. MOTLEY. All right.

Ms. ASHLEY. Senator, may I offer an example that might be closer to real life. A lot of the employees in my hospital have been clamoring for dental insurance for a long, long time. We have not offered dental insurance to our employees because it is not free, it costs, it is an expensive benefit. I have a limited budget. I have to meet a bottom line every month, every quarter, every fiscal year.

If I offer dental insurance to my employees, something else has to go. That is a replacement of one benefit for another.

Senator DODD. I understand that.

Ms. ASHLEY. The committee may not consider that a reduction.

Senator DODD. I understand your case, that is your case that you think you would have to do. All we are talking about is the cost of parental leave. The suggestion is that this somehow rates along with health insurance or vacation time or one of these other benefits. All we are suggesting to you is, with the hundreds of businesses in this country, both large and small that have parental leave policies, that have to go through the same thing your hospital does day in and day out, have never had to reduce a benefit because of parental leave. That is all I am telling you. And all I want from those who oppose this bill, who raise that issue, is to find me one business in the United States that has reduced a benefit package because of parental leave. If you cannot find me one, I do not think you have got a very strong case to make on that criticism. That is my only point to you. I have heard it raised so many times. All I have been waiting for is for someone to stand up and say, "Senator, let me show you a business that in fact reduced the benefit package because they adopted parental leave." Then I would say okay, that is a point, now let us see how widespread that is. But if you cannot name one, not one out of six million—not six million employees, not all of them have it, unfortunately, but of the thousands that do, then I have to raise the question of whether or not that is a sincere criticism, truly, I really do. Do you understand that, my point?

Ms. ASHLEY. I see your point.

Mr. **Motley**. Senator, do you not also have to ask the question for those firms that now provide it, that if they did not, what else would they may be providing in its place that their employees would want?

Senator **Dodd**. In fact, the evidence we have, I will grant you, it is not ten years yet, but we have got firms that have had it for ten years that employ large and small numbers of people. They have expanded benefits, they have not cut them back.

Mr. **Motley**. But maybe that benefit is important to that firm, whereas providing prescription drug assistance is not.

Senator **Dodd**. I do not disagree, but I do not put a dental plan on the same basis as being with your sick kid. I do not put a vacation day on the same level as being with a newly adopted child. Now, there is a difference between a vacation day and a sore tooth and your desperately ill child and losing your job. Now, let us be honest here, we are talking about some basic stuff.

I presume the same argument was made about the child labor laws, let the business decide, different parts of the country have different needs, different age groups, why not let each State and locality and business decide what is best for them. I presume the same argument was made. It was, in fact, for maternity leave, which now people accept. You know, when we had them mandated and the courts have upheld it. You know, maybe we will just employ men, because they do not need maternity leave. We said that is kind of basic, you see.

The same thing with fair labor standards, we did not say well that is civil rights laws. Come on, Senator, you know those arguments, John, they were made at the time. I am not necessarily equating each one and trying to put them all in exactly the same status, but frankly if we are going to get serious in terms of families and kids and trying to do something to create some better relationships there and at the same time not hurt business, then I do not think you want to put it on the same level as a dental plan or a vacation day. I really do not. I mean I think that is a bad argument, to equate those two.

I would just like to approach that discrimination issue with you, because it is one that I hear all the time and I usually get it from women who are witnesses here, that this is going to cause discrimination.

My point only was—and I am sorry I did not take a longer time with Mrs. Ball—that in fact you can discriminate today, but that everyone agrees, I presume, that discrimination is something we do not want to see. We all oppose that, I presume, that actually we would oppose discrimination in hiring. Now, it is discrimination between women and men, I presume you were saying.

The point I am trying to make with this legislation is it would be illegal to discriminate in that sense because it is parental leave. Do we not reduce the possibility of discrimination against women in hiring with the adoption of this? Whether you like the bill or not, would it be your conclusion as well as mine that, putting everything else aside that you dislike about this bill, that it in fact will reduce the likelihood of discrimination against women if in fact this is Federal law?

Ms. **Ashley**. No, Senator, I do not think that will be the case.

Senator DODD. It will increase discrimination, in your view?

Ms. ASHLEY. I think there will be more likelihood of subtle discrimination against women who are in child-bearing years, I honestly do.

Senator DODD. Well, this bill includes medical leave, and it includes fathers who can take time off.

Ms. ASHLEY. I understand it includes the fathers who will take time off as well, but I think that in companies that offer parental leave to fathers, only 3 percent of them take advantage of it, so we are not looking at a larger number of men who are likely to take advantage of the legislation. Traditionally, it is the woman who takes the time off to be with the child and physically she has to do that to bear the child. I think that women are going to indeed see some very definite negative effects from this legislation.

Senator DODD. Now, I told you that in States, in areas that have policies similar to this, that in fact the employment of women has either been the same or gone up. We know of no single locality where the employment of women has gone down where there have been these kinds of policies in place. Would that change your view at all?

Ms. ASHLEY. You are referring to the 9-to-5 study?

Senator DODD. There have been all sorts of local studies done on the employment rates of women. You can look at any data. I can show you jurisdictions that have parental leave policies, and then what happens, in the employment of women in those jurisdictions. Not a 9-to-5 study, just employment data.

Can you cite to me a locality, a county, a State, a business that lowered the number of female employees once they adopted a parental leave policy? Can you give me any data that supports that fear?

Ms. ASHLEY. No, sir, I cannot, but I am not aware of any companies that have adopted a parental leave policy, so I do not have the information.

Senator DODD. But there are localities, too, jurisdictions that have. My point to you is I can show you data that says just the opposite. Now, do you not think if someone is going to make that claim, they ought to show me some data that would confirm, since we have evidence now——

Ms. ASHLEY. I appreciate your viewpoint, Senator. I would like to add that before I became the benefits manager for my hospital, I was the employment manager and I served in that capacity for approximately eight years. I oversaw the hiring of everybody in the hospital, except the physicians. I can assure you that there are very subtle ways of discriminating against women or anybody else in the society, and in a capacity to hire people, I saw it daily, I saw it hourly.

Senator DODD. I am not going to disagree that there are subtle ways to get around it. I am just saying I appreciate the criticisms about the bill and I take them very seriously. My point is if there is going to be a criticism made about the legislation based on a fear, I would hope that the people who raise those fears would at least, since there is a body of evidence out there—as somebody pointed out earlier today, child care is not new, a lot of businesses have had this, localities have had it, and now we have some States that have over the years, and there ought to be some information that supports those concerns. This is not going to be a totally new concept, if in fact it is adopted.

Yes?

Ms. **Friedman**. I am not sure I understand the discrimination discussion. I do not think companies have a choice about who they are going to hire any more. When you are in the type of labor shortages and an increasing percentage of the labor pool is female, I have been telling companies that you can get rid of her if she has got a kid, the next one is going to have twins, and within 15 years the number of employers are going to have responsibility for an aging relative is going to surpass those of child-bearing.

Senator **Dodd**. Well, let me put real numbers on it for you. Between now and the year 2000, 50 percent of all new hires will be women. Between now and the year 2000, 15 percent will be white males, 15 percent as opposed to 50. I think, again, just demographics indicate that you are not going to end up with too much discrimination or you are going to be out of business.

Ms. **Ashley**. Perhaps not on the hiring, sir, but there are things like promotions and opportunities for other jobs, and women may very well be affected by that through the subtle effects of discrimination from this legislation, and that may be at the root of why we have a nursing shortage. I mean it goes full circle. The reasons for the nursing shortage are both the demand side and the supply side. You have increased technology and people living longer because of that, you need more nursing care and at the same time you have fewer women going into the field. Why? In fact, because of pay, I think that is number one, but a lot of it has to do with the scheduling and the hours and the flexibility that they need to raise their families.

So it is a backless argument. It seems to me if you provide this, you are going to increase your likelihood of being productive and that is why you are going to gain and not lose. The analogy to making dental plans, I do not think companies provide benefits exclusively on an economic basis. I am not saying this is the right thing to do. I am not talking about corporate social responsibility. But there are other things that affect the culture of an organization, that a company determines is the way to go, that ultimately affects a positive return on their investment, that you cannot quantify in dollar amounts, and I think parental leave falls in that category.

Senator **Dodd**. Is it your experience—again, you have talked to these people far more than I do—where parental leave policies have been adopted by businesses, both large and small, was it a dogooder notion or was it good business practice they were adopting?

Ms. **Friedman**. I think very early on it was a good practice, and we are talking about the early seventies. There was an increasing amount of caselaw that was developed from women suing their employers because they were not tending to this properly, far too much discretion on the part of supervisors, and then you had the 1978 Pregnancy Discrimination Act, and so of course they all went to do it.

At this point, what is happening now in the eighties is we are talking about, again, larger companies for the time being but some states, Ohio has six months off for family leave, but companies going up to a year, two years. In Britain now, you have got leaves up to five years, because they have a labor shortage and they know they are going to have to recruit for women.

In fact, there was a study that Ellen Galinsky, from Bank Street College, has been doing, interviewing companies in Sweden, and I know the companies hate the mention of the word, but the fact is that now the——

Senator DODD. Do you provide West Germany or something.

Ms. FRIEDMAN [continuing]. But that on the cover of Management Review Magazine, they are saying the new body of companies to look at for good management practices are coming from Sweden and why the results of the interviews from the companies that had parental leave, that were forced to have parental leave 15 years ago are saying I know you think we are a social welfare state, but that is not why we are doing this, we have rampant labor shortages, we have to do that and we are voluntarily going beyond the law now to accommodate the people we have to hire. That is what we are hearing.

Senator DODD. Let me ask one other question of Ms. Ashley, and again I appreciate your willingness to engage in this kind of thing. You made a case earlier about the critical help, the cardiac care nurse, for instance, that is very important.

I was struck by your example, where all of a sudden you only have a few of those, one that is on a shift at night, comes up to you and says, "Look, I have got a problem, I have got a sick kid in the house and I have got to take time off." It seems to me you are in a no-win situation under the present facts. Either, one, you say I am sorry, you have got to stay here. I would be very nervous being a patient in your hospital with that person watching me, and I do not think that is unfounded.

Ms. ASHLEY. And you should be nervous about being in any hospital in the country, given the staffing shortage crisis that we are all experiencing.

Senator DODD. Let us just deal with that fact situation. All I am saying to you is this: You have taken a very important person in the hospital—now I understand the difficulties here, but you have told that person that she cannot leave, that she has got to stay there.

Ms. ASHLEY. But what I have is the possibility——

Senator DODD. Or if she says I am going to leave, you fire her, so you just lost a good person. I do not understand how you win.

Ms. ASHLEY. No, sir. What I have is the flexibility to work out an arrangement with that employee. Maybe I cannot let him or her go right now, but maybe I can trade something else in the future. If I cannot give that employee tonight off, maybe I can give her the next two days off instead, because I know I have my staffing situation covered. It is that flexibility that is so critical in a hospital environment, I cannot predict when somebody is going to be brought in by a helicopter from a car crash. I cannot predict when my beds are going to be filled because there are so many patients out there. Sometimes you just cannot predict these things in the health care industry.

Senator **Dodd**. I understand that, but nor can that nurse predict that her child was going to end up having an accident.

Ms. **Ashley**. I understand that and I appreciate that there needs to be some sort of a balance struck, there needs to be some tradeoff where an employee and an employer can work out these things, and if there is a Federal mandate there will not be an opportunity for an employer to work out anything.

Senator **Dodd**. You understand that it is not happening. I mean the data again indicates that, except for sick leave and disability for the worker themselves, the 80 percent, or down some, 70 percent, but nothing less than that do not provide any of these benefits at all. You understand that, do you not?

Ms. **Ashley**. It is happening in my company, it is happening in many hospitals. It is happening in all the hospitals that I deal with. I do not know employers that do not offer time off or that are not willing to negotiate with their employees when there is a critical need for that time to be made available.

Senator **Dodd**. Does anybody else have a comment? I have taken all your time here.

Ms. **Roberts**. Senator Dodd, the nursing shortage obviously exists now without the parental leave law and, was mentioned, it is interesting that the skilled labor shortage that is developing in a lot of the traditionally women's professions are not being seen as indicative of the need to remove barriers to women's full participation in the labor market.

You know, there has been discussion about the need for incentives. Yes, sometimes incentives are important and sometimes those incentives need to go to the employees to stay in a particular field, and I think that this is one of those areas.

One comment I want to make and that is that I do believe in flexibility and I think that the Oregon law has some good things to offer employers. One, we do provide a notice requirement that is spelled out in the law, 30 days, and if the employee does not give timely notice that there can be a reduction in the benefits, and the notice according to our rules should be in writing so it is easier to enforce and to determine whether or not a violation of law has occurred.

We do have some other exceptions that are helpful, but this Federal Act I want to applaud you for including the reduced schedule option. I think it is important to recognize that, just as employers are concerned about the welfare of their employees, the employees are concerned about the welfare of their employer and the company and I do believe that when the flexibility issue is raised, one must recognize that flexibility needs to be available on both sides.

The suggestion was made that if the employer has the ultimate say, as they do now, that they can obtain flexibility through negotiation, and I would simply suggest that, with the backup of the law, where the employee having essentially an ultimate say, because they have an entitlement to a certain amount of leave does not remove the opportunity to negotiate and work out something that can benefit both. Nobody wants to go back to a desk that is piled high with work that has not been taken care of by an adequate replacement and nobody wants to see a business go down the tube, particularly if they intend to work there.

So, I think that there is hopefully rationality and people able to work out these difficulties. That has been the experience generally in Oregon. There is obviously always the case of an inflexible employee who says I want to go, here is my notice, and that is it, but there is also the employer that will impose unreasonable demands on employees in these circumstances, as was mentioned, forcing someone to resign.

So, I think there needs to be some balance.

Senator Dodd. I agree with that as well. The tax credit, the carrot approach, has a certain amount of appeal. What we are doing then is asking the American taxpayer to subsidize something that people have found generally to be a worthwhile business practice. I always believed you provide tax credits to get people to do things they are unwilling to do, that is going to be costly for them to do it.

Our data indicates that in fact it is not costly, in fact quite the contrary, that businesses benefit from it, and I think it would be rather hard right now to be talking about a tax credit, particularly one with a pay program that some people have suggested.

Also, let me stress—and I do appreciate what NFIB has done. In fact, our bill I think excludes about 88 percent of NFIB's membership as it presently is drafted, and I am willing to certainly consider, as we have talked about, raising numbers a bit here to minimize impact. Again, my general feeling is small business ought not worry about it. The larger operation, we end up with a sentence or a practice and you do not get that kind of personal contact that goes on, so this is still open.

So, I certainly would not be introducing a bill on parental leave or anything else if I felt frankly that this thing was happening out there and that it was really moving. My experience over the last several years is that it has not really moved, unfortunately. You are getting States that are moving on it, and if I were in business I would be worried about that kind of patchwork approach. It makes more sense here to end up with some national policy on some basic questions like this. Particularly with the roaring changes of demographics, this is a problem, as I said in my opening statement, that just does not go away. It is like the ad on television, you can pay me now or you can pay me later, but we are paying for this already in many ways.

Again, I want to thank all of you for being here today and being patient. John, I have said it to you privately and I will say it to you publicly, I really am hopeful that we can come to some sort of meeting of the minds on an approach dealing with this legislation. I am anxious to sit down with the Small business community, the Business Roundtable, whatever the groups are to see if we cannot come up with a concept here that will satisfy the need and the goal which I applaud you for addressing and saying we all agree on. The question is how do we get there effectively without doing some of the things that you are concerned about.

I would tell you, I think your concerns are not illegitimate. I do not mean to suggest they are. It is just that I would rather focus on the ones that are really out there than the ones that I think people think may be out there. That is my only point. Again, I thank you for being here.

Ms. Ashley, you were very patient. We focused on you a little bit here at the end, and you were very gracious and the hospital is lucky to have a good employee.

Again, from New Mexico, coming a long way, and you, Mr. Carter, Dana, once again for being here, and the Commissioner coming from Oregon, we wish you well with your Oregon law as well.

Thank you all.

[Additional material subsequently supplied for the record follows:]

Statement

By

Robyn I. Stone, Dr.P.H.

National Center for Health Services Research
and Health Care Technology Assessment
(NCHSR)

BEFORE THE SUBCOMMITTEE ON CHILDREN,
FAMILIES, DRUGS AND ALCOHOLISM
LABOR AND HUMAN RESOURCES COMMITTEE
UNITIED STATES SENATE

Thursday, February 2, 1989

Mr. Chairman, my name is Robyn Stone. I am currently a research fellow at the National Center for Health Services Research and Health Care Technology Assessment (NCHSR). During the past several years much of my research has focused on the role of family and other informal caregivers in helping to maintain chronically disabled elderly persons in the community. I am here today to highlight some of the research findings as they pertain to work and elder care. I begin by briefly defining elder care and describing the major concerns related to work and elder care. I then turn to a discussion of the number and nature of persons who are most likely to be affected by the proposed legislation. Finally, I conclude with some comments about demographic and economic trends which will influence the number of employed caregivers to disabled elders in the future.

What is Elder Care?

Most people are familiar with the term "child care" and, in particular, the major responsibilities associated with caring for a sick child. For many Americans with disabled elderly family members, however, caregiver responsibilities do not stop when the children leave home. According to a recent analysis of data from the 1984 National Long Term Care Survey conducted by me and Peter Kemper at NCHSR, approximately 13.5 million persons--7.1 percent of the U.S. population age 14 and over--have elderly parents or spouses who are chronically disabled and require some level of long term care. (See Appendix A for the paper.) Half of these people have parents or spouses who need human help in performing basic activities of daily living such as dressing and bathing or even eating. The others have elderly parents or spouses who are less disabled, but require assistance with such routine activities as meal preparation, laundry and grocery shopping.

A little less than one-third of these spouses and children actively provide care to their disabled spouses or parents. (Those who are not active caregivers rely on other family members, friends and neighbors, paid caregivers, or nursing homes to provide care. In a few cases, the elder reportedly receives no care.) This care is unpaid and is often referred to as "informal care." Just under one in five persons with disabled spouses or parents--2.6 million--are primary caregivers; that is, they assume the major responsibility for the elder care. Of these, some 581,000 are employed. Not surprisingly, women are much more likely than men to be caregivers.

Elder Care and Employment

In recent years there has been growing interest in this informal and unpaid system of care. One area that is receiving particular attention from researchers and policymakers is the potential conflict between elder care and employment and the implications for caregivers and their families, for employers, and for society. Our research has found that caregivers who reduce their work hours, take time off without pay or quit their jobs because of elder care responsibilities will experience financial losses in earnings and employment-related benefits, in addition to the emotional costs of juggling work and care obligations or foregoing the satisfaction of working. Employers also are faced with decreased productivity due to tardiness, absenteeism and poor morale, and in the case of those who quit to care for a disabled elder, the costs of replacing employees.

Employees with disabled parents or spouses warrant attention because policies which encourage flexibility of work schedules may influence their decision to provide care. Many people face job demands as well as elder care decisions. Approximately 7.5 million people with disabled parents or spouses work full time. They represent 8.5 percent of the full-time employed population in the United States. Including those working part time would probably make the count of employed caregivers even larger. Almost one million women with a disabled parent have both a full-time job and child care responsibilities. These dual demands compete with caring for a disabled parent and are likely to influence a woman's decision to provide elder care.

Of course, not all of these children and spouses actually give care. Those who do while they are employed are the direct beneficiaries of policies which allow flexibility in the workplace. Our research suggests that nearly one out of every 60 full-time workers--1.5 million people--are children or spouses who care for a disabled elder. One third of them assume the primary care responsibility. Women working full time are four times more likely to be primary caregivers than are men working full time--1.2 percent of women employed full time are primary caregivers compared with 0.3 percent of men.

Employment and Elder Care: Competing Demands

Not all working caregivers report conflicts between work and elder care responsibilities. Some are able to juggle care and job responsibilities without much disruption of work schedules; others may make accommodations in their other responsibilities by, for example, reducing the hours of care they provide or cutting back on leisure activities. However, as discussed below, a proportion of working caregivers do address the competing demands of caregiving and employment by reducing their work hours, taking time off without pay, or, in some cases, quitting their jobs.

The 1984 National Long Term Care Survey did not include detailed information on the competing demands of work and elder care. To examine the magnitude of work accommodation among current caregivers, we must turn to the findings of another study of a subpopulation of caregivers, namely, those who have heavier care responsibilities. (See Appendix B for the complete paper.) Among these informal caregivers (spouses and children) with heavier care responsibilities, 31 percent were employed. Of the children who were giving care, 44 percent of the daughters and 55 percent of the sons were working full or part time. Approximately 11 percent of the children said they quit the labor force to care for a disabled elder; daughters were much more likely than sons to do so. Among the one million caregivers who had been employed during some part of the caregiving experience, one-fifth cut back on work hours, 29 percent rearranged their schedules and 19 percent took time off without pay to fulfill caregiver obligations. For those who had taken unpaid leave, approximately 10 percent were out of work less than one day during the most recent episode, seven out of ten were on leave for one to five days, and one-fifth were on unpaid leave for more than five days.

Another NCHSR colleague, Pamela Short, and I are just completing an analysis which identifies predictors of work accommodation among caregiving children and other nonspousal caregivers. Not surprisingly, primary caregivers are more likely than secondary caregivers to alter their work schedules. In addition we found that female caregivers, white caregivers, and those in fair to poor health are more likely to accommodate their work schedules.

Current and Future Implications

One out of twelve full-time workers faces decisions about the care of a disabled elderly spouse or parent, and this does not count part-time workers. The 581,000 workers who take on primary responsibility for care stand to benefit the most from workplace adjustments to their special needs. Because working women are four times more likely than men to take on these dual responsibilites and are more likely to accommodate their work schedules in order to do so, female-dominated industries are most likely to be affected by work-caregiving conflicts and to benefit from policies that help employees cope with the conflict.

The above numbers underestimate the extent to which elder care responsibilities affect the workplace. First, the number of potential and active caregivers are reported at a single point in time--many more people will have a disabled elderly relative at some point during their working lives. Second, some of those counted are doubly affected--as many as 6 percent of children with one disabled parent may have a second one. Third, the data we analyzed contains information only on caregivers of chronically disabled elders. Many workers are faced with decisions about care arrangements for acute conditions of elderly relatives.

There is a growing number of federal, state and private sector initiatives that attempt to target benefits to employed caregivers. The bulk of corporate activity has been in the areas of flexible work schedules, education, counseling and information and referral concerning available long-term care services. A few companies are exploring the efficacy of a cost-sharing respite care benefit and the feasibility of work-sponsored adult day care. Four states have enacted legislation which ensures unpaid leave to help employees meet their elder care responsibilities.

Policymakers need to understand the future as well as the current demand for and availability of informal caregivers. The generations now 65 or older were born in the late nineteeth or early twentieth centuries, bore children during the Great Depression, and typically relied on a male head of household to earn income. Elderly generations of the future will differ not only in their longevity and health status, but also in the number of family members potentially available to care for them. The next generation of elders, for example, will have more children available to take care of them. According to the U.S. Census Bureau, women aged 45 to 64 in 1980 bore an average of 2.8 children compared to 2.3 for those aged 65 or older. Further in the future the more recent decline in fertility rates will reverse this trend.

Continued increases in female labor force participation rates among middle-aged women (those most likely to be caregivers) which would increase the potential conflict between work and caregiving, may reduce the extent to which women are caregivers. Although difficult to predict, these demographic changes will affect the size of the employed population facing elder care decisions. They should be taken into account in assessing the competing demands of employment and elder care and the associated costs to employees, employers, and society.

ILGWU
INTERNATIONAL LADIES' GARMENT WORKERS' UNION

1710 BROADWAY
NEW YORK, NY 10019
212-265-7000

February 2, 1989

The Honorable Christopher Dodd, Chairman
Sub-Committee on Children, Family, Drugs, & Alcoholism
U. S. Senate
Washington, D. C. 20510

Dear Senator Dodd:

On behalf of the International Ladies' Garment Workers' Union, I want to express our appreciation for the opportunity to submit for the record this letter of endorsement of the newly re-introduced Parental and Medical Leave Act.

As you know, the ILGWU is a very strong supporter, not only of the concept of parental and medical leave but of efforts at the national and state levels to enact leglisation to give all working parents in the United States this basic job protection and family benefit.

It is therefore heartening to our union to know that you are continuing the fight to enact this very important piece of legislation. The Senate's failure last year, at the close of the 100th Congress, to end a filibuster on the package of "family" legislation was as disappointing to the ILGWU as it was to you and your staff. In the 101st Congress, the ILGWU is committed to renew the fight for parental and medical leave protections on a national, state and local level and to work with other organizations on behalf of your bill.

We believe that the ILGWU is uniquely prepared to speak out in support of a national bill to give workers parental and medical leave benefits. Historically, our union has concerned itself with the welfare of our workers in and out of the workplace. As a result of this concern, we have established programs and benefits for our workers such as union pension funds, health plans, child care facilities and education programs. For years, the ILGWU has been in the forefront of the labor movement in developing benefit plans that give workers confidence that they can count on having vital services and benefits dealing with their most pressing personal and family concerns.

GENERAL EXECUTIVE BOARD [illegible]
SOL C. CHAIKIN, PRESIDENT EMERITUS

In 1988 the ILGWU successfully negotiated, in its major market agreements, a new package of wage increases and worker benefits, including a new parental leave provision granting, upon request by the workers, up to a six-month unpaid, job-protected leave for the birth or adoption of a child for both mothers and fathers. This benefit was negotiated without eliminating any previous benefits included in our union contract.

We urge you and the Senate Labor and Human Resources Committee to report out the Family and Medical Leave Act without delay so that the full Senate may debate its merits and pass this legislation.

Our efforts to make Family and Medical Leave an Act for the benefit of all workers whether they be single heads of families or part of a two parent working family, also will include a wide-spread campaign to insure its passage in the House of Representatives so that it will reach President Bush's desk in the first half of the 101st Congress. We look forward to his signing it into law.

Respectfully yours,

Jay Mazur

Jay Mazur, President

SERVICE EMPLOYEES
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JOHN J. SWEENEY
INTERNATIONAL PRESIDENT

RICHARD W. CORDTZ
INTERNATIONAL SECRETARY-TREASURER

STATEMENT OF

SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, CLC

BEFORE

THE HONORABLE CHRISTOPHER DODD

CHAIR
SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS, AND ALCOHOLISM
COMMITTEE ON LABOR AND HUMAN RESOURCES
U.S. SENATE

ON

"THE FAMILY AND MEDICAL LEAVE ACT OF 1989"

SUBMITTED BY:

JOHN J. SWEENEY
INTERNATIONAL PRESIDENT
SERVICE EMPLOYEES INTERNATIONAL UNION

I would like to thank Senator Dodd and the other members of the Subcommittee on Children, Family, Drugs, and Alcoholism for this opportunity to present the views of the Service Employees International Union on the Family and Medical Leave Act of 1989. SEIU's 850,000 members appreciate your efforts to make 1989 the year that the United States joins the ranks of other industrialized countries with a national family policy -- a minimum parental and medical leave standard.

SEIU members work in the rapidly growing service industries where low wages and few benefits are becoming the norm. We view parental leave as part of a package of decent minimum standards -- including restoration of the minimum wage -- which will bring greater security and stability to America's working families.

SEIU has lead the way in championing the work and family agenda at the bargaining table as well as in state houses and on Capitol Hill. We have negotiated new benefits to help our members cope with the work and family balancing act. But a bargaining solution -- employer-by-employer -- is not sufficient to meet this national problem.

The dramatic economic changes of recent decades have led to stagnating real living standards. Working families have been saved from financial disaster by the increasing labor force participation of women. Yet families have been left to cope with these changes on their own. There is much discussion of the strain on American families -- action is needed now to bring our family policies up to the levels long taken for granted in other industrialized countries.

Our research has shown a clear need for the Family and Medical Leave Act. Most service workers don't get the minimum ten weeks of unpaid leave this bill would provide. Less than a third of clerical workers, who are overwhelmingly female, get any family leave. Unionized service workers do better. Service Employees International Union contracts have won three months or more of maternity leave benefits in 61 percent of private sector contracts covering 83 percent of SEIU private sector members. But only about one-third of these contracts (covering only 10 percent of SEIU private sector workers) include job guarantees and only 8 percent of the contracts include continuation of employer contributions to health insurance plans.

Workers aged 55 and older are projected by the BLS to be the fastest growing sector of the workforce -- they need the medical leave job protections of this bill. Older workers are twice as likely to miss work because of illness and have a harder time finding a new job at comparable pay if they are unemployed.

We have attached the statement of Lisa Caezza, a member of Service Employees Local 134. Ms. Caezza has worked at Brown University for nine and a half years and has been a clerical assistant in the library for half of that time. While hospitalized following one month's leave for a bleeding ulcer as prescribed by her doctor, she was terminated. This case shows just how quick some supervisors are to fire senior employees because of medical problems -- even when the termination violates a union agreement as in this case.

Once again we hear from employer representatives that mandated unpaid leave would be financially burdensome and would automatically result in the reduction of other benefits desired by employees. The facts do not support this contention which rests only on an ideologically-motivated rejection of any expansion of the rights of working people. The General Accounting Office has estimated the total annual cost to employers of S.345 to be $236 million -- which amounts to $4.35 annually per covered employee. The total annual costs of benefits and other nonwage payroll costs per employee have been estimated to amount to nearly $8,000 -- the $4.35 to cover unpaid family and medical leave will hardly be felt by employers. This point is illustrated by the attached chart.

SEIU's collective bargaining experience shows that the claim of a "squeeze on other benefits" resulting from this bill is without foundation. SEIU is the largest union in California and also has over 190,000 members in New York -- states that have temporary medical disability or minimal parental leave programs in place. In these states, even during the most difficult collective bargaining negotiations, employers have never asked for cutbacks in other benefits such as health insurance, sick leave, or pensions to pay for state mandated family and medical leave programs.

SEIU is the largest union of healthcare workers in the United States. We are all too familiar with attempts to curtail the rights and benefits of healthcare workers with the argument that they are "critical personnel". Healthcare workers know from their daily experiences on the job the direct medical benefit to patients of support from loved ones. It is indeed twisted logic to argue that these same workers should not be guaranteed the right to return to their jobs after taking time off to care for family members. In the face of chronic shortages in the industry of nurses, nurse aides and other direct care personnel, employers need to take steps to reduce turnover and retain qualified workers. According to GAO, a minimum family leave standard will likely "reduce job turnover and enhance average productivity" by retaining experienced, trained employees.

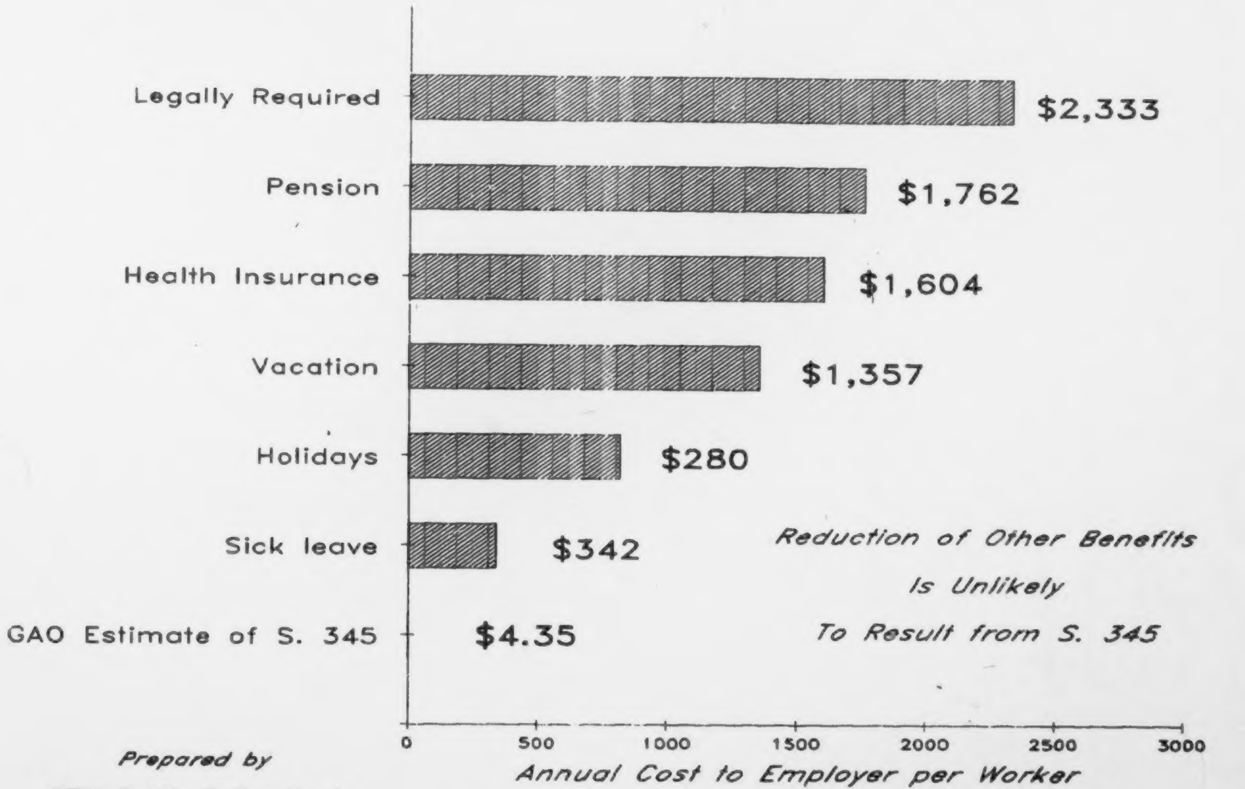
Another category of service sector employers -- local school boards -- have argued for a special exemption from the Family and Medical Leave Act. SEIU represents 100,000 workers in the other half of the public school system -- the non-teaching support staff. School support staff continue to suffer from a two-tiered compensation structure which leaves them with fewer rights and benefits than teachers. School employees juggle the demands of work and family just like everyone else and they need the job protection provided by this bill.

In my opinion, the coverage of this bill is broad enough to avoid employment discrimination against women of childbearing age. Remember that discrimination occurs in firing as well as in hiring. Under current law, employers may use the attendance disruption occasioned by family emergencies as a pretext to dismiss workers considered undesirable for reasons unrelated to work performance.

S.345 guarantee's of minimum job security is especially important to low wage workers. When employers claim they are more than willing to work something out with a valued employee, it implies that they are unwilling to accommodate those employees who may have good work records and long seniority but unluckily are readily replaced. Such workers are a majority and need the job security protection this bill offers.

The Family and Medical Leave Act simply requires that employers extend the hand of common decency to all their employees -- without discrimination. The Service Employees International Union will continue to devote its resources and energies to securing passage of the Family and Medical Leave Act of 1989.

ANNUAL COST OF UNPAID PARENTAL AND MEDICAL LEAVE IS FAR BELOW OTHER BENEFITS



Prepared by
SEIU Public Policy Dept.

Source: U.S. Chamber of Commerce; GAO

AMERICAN BAR ASSOCIATION
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Statement of

CLIFFORD D. STROMBERG, CHAIR
SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES

of the

AMERICAN BAR ASSOCIATION

submitted to the

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM
COMMITTEE ON LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

concerning the proposed

FAMILY AND MEDICAL LEAVE ACT

February 2, 1989

Dear Mr. Chairman and Members of the Subcommittee:

I am Clifford D. Stromberg, Chair of the ABA's Section of Individual Rights and Responsibilities. I appreciate this opportunity to present the views of the American Bar Association on the proposed "Family and Medical Leave Act."

The American Bar Association strongly supports enactment of the proposed "Family and Medical Leave Act." The legislation is consistent with the following resolution adopted by the House of Delegates, the Association's principal policy-making body, in February 1988.

> BE IT RESOLVED, that the American Bar Association supports federal and state legislation establishing minimum requirements for reasonable, unpaid, job-protected family and medical leave for employees, consisting of:
>
> (a) temporary medical leave, to allow employees to take job-protected leave for medically necessary time for childbirth and pregnancy-related health conditions and for other temporary health conditions;
>
> (b) family leave, to allow employees to take leave on a full- or part-time basis to provide care for family members other than their children (e.g., the employee's own parents or spouse) who have serious health conditions; and
>
> (c) continuation of health benefits during such periods of temporary medical and family leave.
>
> BE IT FURTHER RESOLVED, that such legislation should only apply to organizations which have more than a reasonable threshold number of employees; and
>
> BE IT FURTHER RESOLVED, that the Association supports federal legislation mandating a study of means for providing salary replacement during all or part of such temporary medical and family leave, and also supports the establishment of federal minimum requirements for job-protected, unpaid temporary medical and family leave pending the outcome of this study.

This policy is an extension of the Association's 1987 resolution endorsing parental leave for a reasonable period of time following the birth or adoption of a child or to care for a seriously ill child, and the continuation of health benefits during the period of such leave. (See Appendix A)

These ABA policies recognize that our nation must develop policies to accommodate the dual obligations of work and family. Particularly when budget expenditures are limited and families face increased burdens to care for their own members, they must be supported by flexible policies. These policies should further the goals of equality between the sexes and non-discrimination in the workplace on the basis of sex.

Today, women are the fastest growing segment of the labor force and continue to enter the work force in record numbers. Over 61% of all married women with children are working outside the home, as are almost 68% of single mothers. If employees--female or male--are not permitted leave at a time of medical necessity to care for a child or a frail elderly parent, the result will be an increasing shift to high-cost care in professional institutions, much of it at taxpayer expense.

Clearly, one of the worst economic hardships that can befall a family is for a breadwinner, whether a man or a woman, to lose a job because of absence due to a temporary medical necessity or the temporary care of another family member. The adoption of the Family and Medical Leave Act will acknowledge not only the need to protect and strengthen families, but also the deleterious effects of failing to provide such leave. Failing to provide such leave results in major costs to society, such as: increased claims for unemployment compensation, AFDC and Medicaid benefits; increased disruption and training costs for employers; job loss due to employees' serious health conditions or urgent family responsibilities; economic hardship for families when the wage earner loses his or her job; and the emotional suffering of children who do not have an adequate opportunity for early bonding with their parents.

By limiting the coverage of the proposed "Family and Medical Leave Act" to organizations which have more than a reasonable threshold number of employees, the legislation minimizes the impact on small business and strikes a balance between many competing concerns.

The American Bar Association urges enactment of the proposed "Family and Medical Leave Act." On behalf of the Association, I thank the Chairman and the Subcommittee for permitting us to present these views. Our reasons for supporting this Act are elaborated in the report accompanying our 1988 resolution, which is attached as Appendix B.

0334Q

Attachments

APPENDIX A

RESOLUTION ADOPTED
BY THE
AMERICAN BAR ASSOCIATION

August, 1987

The resolution reads as follows:

> BE IT RESOLVED, that the American Bar Association supports the establishment of a reasonable Federal minimum requirement for job-protected parental leave to allow parents to take unpaid leave on a full- or part-time basis to provide child care for newborn infants, newly-adopted children, and seriously ill children.
>
> BE IT FURTHER RESOLVED, that such requirement only apply to organizations which have more than a reasonable threshold number of employees.
>
> BE IT FURTHER RESOLVED, that such federal requirement include the continuation of existing health benefits during such periods of leave.

NOTE: The purpose of this report is to provide background information. It does not constitute offical ABA policy.

APPENDIX B

ABA BACKGROUND REPORT TO FAMILY AND MEDICAL LEAVE RESOLUTION

FEBRUARY 1988

REPORT

In August 1987 The House of Delegates passed a resolution[1] endorsing a public policy of parental leave for a reasonable time following the birth or adoption of a child or to care for a seriously ill child and the continuation of health benefits during the period of such leave. This resolution builds upon these provisions but goes beyond them to endorse a broader public policy which would provide job protection for leave related to workers' own disabilities, for leave to care for other seriously ill family members, and which would set up a process for exploring alternative public policy approaches to providing salary replacement during periods of family or medical leave.

This was but the most recent in a long series of related Association policies. The Association has long recognized the importance of equal rights for women and the need to protect women against employment discrimination because of their childbearing role. The Association also has a longstanding interest in the well-being of children and in the quality of life afforded to our elderly citizens.

In February 1972 the House of Delegates passed a resolution supporting constitutional equality for women and urging the extension of legal rights, privileges and responsibilities to all persons regardless of sex. The ABA has urged law schools and law firms to refrain from discriminating against women and has favored enactment of legislation to insure that employers are prohibited from discriminating against applicants or employees on the basis of sex. The ABA has supported federal and state legislation assuring that prohibitions against sex discrimination in employment would also prohibit discrimination because of pregnancy.

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[1] The resolution reads as follows:

> BE IT RESOLVED, That the American Bar Association supports the establishment of a reasonable Federal minimum requirement for job-protected parental leave to allow parents to take unpaid leave on a full or part-time basis to provide child care for newborn infants, newly-adopted children, and seriously ill children.
>
> BE IT FURTHER RESOLVED, That such requirement only apply to organizations which have more than a reasonable threshold number of employees.
>
> BE IT FURTHER RESOLVED, That such federal requirement include the continuation of existing health benefits during such periods of leave.

In 1978 the ABA established its National Legal Resource Center for Child Advocacy and Protection to work on legal and policy issues affecting children. The ABA has passed numerous resolutions regarding the well-being of children including a 1983 resolution supporting the increased availability of child care resources to families at all income levels as well as resolutions on foster care, corporal punishment in the schools, child abductions, child support and a number of other issues. In 1978 the ABA established the Commission on the Legal Problems of the Elderly and in 1981 passed a resolution endorsing re-authorization of the Older Americans Act of 1965, as amended, which is concerned with the quality of life of our older citizens.

The current resolution is necessary to clarify the position of the Association and to provide the full protection needed to cover all medical conditions related to pregnancy and childbirth. In particular, a public policy of providing parental leave, as previously endorsed by the Association, would not provide job protection when a woman must take leave because of prenatal health problems requiring her to be bedridden before her baby is born or when a woman must take leave because of temporary disability caused by miscarriage, stillbirth, or complications of abortion. This resolution addresses the question of how to do so in a manner which would not offend the principle of treating pregnancy related medical conditions like all other serious health conditions.

The current resolution suggests that our nation should begin the process of developing a policy of accommodating families and work and of doing so in a way that furthers the goals of equality between the sexes and nondiscrimination in the workplace on the basis of sex.

In the past the greater part of childrearing and care of the ill and the elderly was performed by family members, usually women, who typically did not work outside of the home. Today, however, while many families prefer to have both parents work because of the satisfaction they experience from their jobs, most families find it necessary to have both parents work in order to assure a satisfactory standard of living for the family. It is no longer feasible for most mothers to stay home with their children. Today 61.3% of all married women with children are in the labor force.[2] Most mothers of young children also are in the work force: 67% of married women with children under the age of three and 50% of all mothers with children under the age of one were in the labor force in 1985.[3] In the 8.7 million families headed by women the income of the mother is essential; 67.6% of these single-parent mothers are in the labor force.[4]

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[2] Bureau of Labor Statistics, Half of Mothers with Children Under Three Now In Labor Force (August 20, 1986).

While most of these families use some form of child care to care for their children while parents work, it is extremely important to the well-being of the child and to the bonding of parents and children that parents themselves be physically present to care for children during certain essential periods in a child's life such as following the child's birth or adoption or placement in foster care and during a child's serious illness. Dr. Berry Brazelton recommends four months as a minimum time for newborns and new parents to adjust to one another.[5] The Yale Bush Center recommends six months as the minimum.[6] There are similar time periods required for the adjustment of a newly adopted child and his or her new family to each other.[7] Similarly, according to the American Academy of Pediatrics, children have increased dependency needs when they are ill and require the unique warmth and security only their parents can offer. According to the Academy, it is sound pediatric practice to encourage the parents to care for and comfort the seriously ill child.[8]

Families also remain a primary resource for the care of the elderly in their own homes or the homes of family members. According to a Department of Health and Human Services estimate, 2.2 million people, predominantly women, cared for 1.2 million frail elderly people in 1982; approximately one million of these caretakers were employed for some time during the care-giving experience.[9] Reliance on healthier family members is often the most cost-efficient and desirable way to care for the elderly. But if no accommodation to this need is made on the job, the result will almost surely be an increasing shift of care to high-cost, professional institutions, much of it at the taxpayers' expense.

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[3] Staff of Representative Patricia Schroeder, Parental and Medical Leave, H.R. 4300, Briefing Paper, 99th Cong., 2d Sess. 3 (July 17, 1986).

[4] Bureau of Labor Statistics, unpublished data (1986).

[5] Brazelton, Testimony at the Hearing on Parental Leave, H.R. 2020, before the Subcommittees on Labor Management Relations and Civil Service 1, 8 (October 17, 1985).

[6] Recommendations of the Yale Bush Center Advisory Committee on Infant Care Leave 3 (November 26, 1985).

[7] D. Smith and L. Sherwen, Mothers and Their Adoptive Children: The Bonding Process (1983).

[8] Statement of the American Academy of Pediatrics (February 3, 1987).

Clearly, one of the worst economic hardships that can befall a family is for a breadwinner, whether mother or father, to lose a job because of absence due to temporary disability. Workers are unlikely to need to use temporary medical leave for extended periods of time: the current average is 5.0 days per year.[10] But when the situation arises it is devastating to family income for a parent to lose a job on top of the difficulties inherent in having a serious medical condition.

While outright workplace discrimination because of pregnancy was outlawed by Congress by enactment of the Pregnancy Discrimination Act of 1978, some employers in the United States are still reluctant to accommodate their workplaces to the reality that their employees have family responsibilities as well as employment responsibilities. Title VII of the Civil Rights Act of 1964, amended by the Pregnancy Discrimination Act, requires employers to treat pregnancy and childbirth like any other medically disabling condition: insofar as leave, paid or unpaid, is provided for other temporary disabilities, they must be provided for pregnancy and childbirth related medical conditions, also. Similarly, Title VII's prohibition of discrimination on the basis of sex requires that if leave is provided to mothers to allow them to care for their newborn infants beyond the mother's own period of disability, then child care leave for a similar period must be provided for fathers. However, there is at present no federal minimum standard providing that any leave must be provided for any temporary disability, whether related to pregnancy and childbirth or not. And there is no federal minimum standard providing that any leave must be provided for caring for a newborn, newly adopted or seriously ill child or for other seriously ill family members.

Today, only the United States and South Africa among the world's industrial countries do not have any nationally mandated maternity benefits. Several European countries, including France,

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[9] U.S. Department of Health and Human Services, National Center for Health Services Research, Caregivers of the Frail Elderly (1987).

[10] National Center for Health Statistics, Disability Days, United States, 1980 (C. Wilder, ed. 1983).

Italy, and Britain, instituted some form of national maternity insurance for working women prior to World War I; they and many other countries have maintained and expanded these policies through the economic vicissitudes of this century. Today over 75 countries have enacted laws providing for maternity benefits--including paid leave before and after childbirth and free health and medical care for pregnancy and childbirth; some provide forpaid paternity leave as well. Many have explicit family policies that go far beyond maternity leave and encompass child care provision, housing, and health services to support families.[11] Sweden provides new mothers with 38 weeks of 90% paid leave--with up to 12 more unpaid weeks; fathers are also entitled to parental leave. Italy provides 20 weeks of maternity leave at 80% of earnings. Japan provides 16 weeks at 60% of earnings. The Philippines provides 45 days at 100%.[12] Surely the United States can afford an appropriate mihimum level of unpaid leave and begin work on determining how paid leave could be provided.

From the standpoint of employers, providing job protected leave in these circumstances would not be a substantial burden. A careful review of current employer practices casts doubt on many of the concerns about burden that some employers have expressed. A 1984 study of a sample of the nations's largest 1500 companies conducted by Catalyst, an independent research firm, showed that 95% of the companies surveyed grant short-term disability leave (38.9% fully paid, 57.3% partially paid, and 3.8% unpaid); 90.2% of them continue full benefits during the period; 80.6% of them guarantee the same or a comparable job. Unpaid parental leave was provided by 51.8% of the companies; of these, 24.3% offer such leave of three months duration, while 28.2% offer such unpaid parental leave of four to six months duration.[13] While smaller firms often permit temporary disability or parental leave, their decisions tend to be more ad hoc and tend not to be based on clearly established personnel guidelines employees can rely on.

Similarly, most employers' health insurance policies already continue health insurance coverage during employees' leaves. In fact, according to a comprehensive study published in 1984 by the

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[11] S. Kammerman, et al., Maternity Policies and Working Women (1983).

[12] International Labor Organization, Women at Work: ILO Global Survey (1984).

[13] Catalyst, Report on a National Study of Parental Leaves (1986).

Employee Benefit Research Institute, 98.6% of health insurance plan participants in establishments of 100 or more employees have coverage that continues for some period when they become disabled.[14] A Columbia University study found that 55% of employers continue health insurance coverage during "maternity leave" (apparently referring to some combination of temporary medical and parental leave).[15] It thus appears that many employers will not have to alter their health insurance policies significantly, if at all, to insure continuation of health insurance coverage during periods of leave.

It is important that national policies providing for the accommodation of work and families be developed in a way that discourages discrimination against women in the workplace and that encourages the full participation of men in caring for their young children and for elderly and ill family members. Historically, denial or curtailment of women's employment opportunities has been traceable directly to the pervasive presumption that women are mothers first, and workers second. This prevailing ideology about women's roles has in turn justified discrimination against women when they are mothers or mothers-to-be.

Current employment practices, because of sex discrimination against men, may in some cases, make it even more difficult for men than for women to accommodate family responsibilities without suffering adverse employment consequences. In the Catalyst study cited above, 51.8% of companies surveyed reported that they give parental leave to mothers, but only 37.0% reported that they provide such leave to fathers[16]--even though such a sex-based differential clearly violates existing law. And while it is a grave hardship on most families to risk the mother's losing her job because of child bearing, it is usually literally impossible for them to risk loss of the father's job in order for him to care for a new or seriously ill child.

In California Federal Savings and Loan Association v. Guerra ____ U.S. ____ (1987) the Supreme Court upheld, for the first time, state legislation which provided job protection following maternity disability leave only and did not provide job protection following leaves for other kinds of temporary disabilities. This decision marks the first time in recent history that employers (in states with laws like California's) can argue that there is a "special burden" attached to hiring women - that they must provide something for women affected by pregnancy that they are not required to provide for other employees. While Title VII as amended by the Pregnancy Discrimination Act, continues to forbid discrimination against women in hiring, firing or other terms and conditions of employment because of pregnancy and childbearing, this additional "burden" could bring subtle pressure to bear on employers not to hire women of childbearing age or to limit their advancement. Proving discrimination in the best of circumstances is difficult for the plaintiff, who must bear not only the legal burden of proof but also the enormous practical barriers to hiring a lawyer and bringing suit. And even if she succeeds in overcoming these barriers and wins, her relief will necessarily be delayed substantially.

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[14] Chollet, Employer-Provided Health Benefits: Coverage, Provisions and Policy Issues (1984).

[15] S. Kammerman et al., Maternity Policies and Working women 61 (1983).

[16] Catalyst, Report on a National Study of Parental Leaves 30,37 (1986).

It is far preferable that the same job protection be provided for all workers who are temporarily disabled in order to remove any incentive to discriminate against women. And perhaps the only practical way of insuring that both men and women are able to be present to parent their newborn and newly adopted children or seriously ill children or other family members is to provide job protection for family leave for all workers.[17]

Additionally, it is clear that no policy of family and temporary medical leave is complete without provision for salary replacement. Without salary replacement, most workers will not be able to take advantage of the leave available except for limited time periods. While it is possible to provide job protection now for workers taking temporary medical or family leave, it is also desirable to begin at once to formulate a national scheme for full or partial salary replacement during these periods of leave as most industrial countries now provide.

Currently, over sixteen states have some form of fair employment practice laws or regulations that require employers to provide unpaid pregnancy disability leave or parental leave. Legislation also has been introduced in a number of other states in the wake of the decision in California Federal Savings and Loan v. Guerra, supra. This pending legislation takes a variety of forms ranging from maternity disability leave through "maternity" leave through "parental" leave and "medical" leave and includes various combinations of these forms of leave.

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[17] In Sweden, where parental leave has been available to both parents since 1974, the percentage of men taking such leave rose from 3% to 22% in seven years. Bureau of National Affairs, Work and Family: A Changing Dynamic 174 (1986).

Prior to the decision in *California Federal Savings and Loan v. Guerra*, *supra*, legislation had already been introduced in the 99th Congress to provide for job-protected, unpaid temporary disability and parental leave. Passage was not secured by the end of the 99th Congress. A Family and Medical Leave Act has again been introduced in both House and Senate in the 100th Congress (H.R. 925, S. 249). Hearings have been held in both the House and Senate. The Senate bill, S.249, covers employers of 15 or more employees and provides for unpaid, job protected leave of up to 26 workweeks during any 12-month period for temporary medical leave for an employee's own serious health condition (including pregnancy and childbirth). It also provides for unpaid, job protected leave of up to 18 workweeks during any 24- month period because of the birth of the employee's child, because of the placement of a foster or adoptive child with the employee, or in order for the employee to care for the employee's child who has a serious health condition. The 18 weeks of family leave may be taken on a part-time basis, rather than a full-time basis, over a period not exceeding 36 consecutive weeks. Leave may be taken intermittently, as necessary, within these time limits to care for a parent or child with a serious health condition or for treatment of the employee. When the leave is foreseeable, the employee must provide the employer with reasonable advance notice and must make a reasonable effort to schedule treatments so as to not unduly disrupt the employer's operations subject to approval of the health care provider. Other kinds of leave accruing to the employee may be substituted for any part of the time periods specified. Employers may limit the combined number of workweeks of family leave and temporary medical leave to 36 during any 12 month period. Employers must maintain coverage for employees taking these forms of leave under their group health plans, if any. On return, employees are to be placed in their former or an equivalent position.

The Act would also establish a Commission on Paid Family and Medical Leave to study methods of providing workers taking family or temporary medical leave with full or partial salary replacement and to make recommendations to Congress concerning a system of salary replacement for these kinds of leave. Enforcement responsibility would be lodged in the United States Department of Labor, with an additional private right of action in the federal courts for aggrieved employees.

A bipartisan compromise reached in the House Education and Labor Committee would amend H.R.925, which originally was almost identical to S.249, to provide coverage only for employees of employers with 50 or more employees during the first three years after enactment and those with thirty-five or more employees after the first three years. Family leave would be available to care for a parent with a serious health condition as well as for children; family leave would be guaranteed for only ten weeks in a two year period. Medical leave guarantees would be limited to fifteen weeks. Employees in the top ten percent of the workforce can be excepted from coverage if the employer shows business necessity. Other provisions are similar to those in the Senate bill.

To date, the primary objections to the legislation have been financial as well as objections, on principle, to further federal regulation of employment. The Chamber of Commerce originally charged that this legislation would cost employers $23.8 billion annually, but has reduced its estimate several times.

The General Accounting Office has concluded a study of the likely costs of this legislation. The GAO's estimate of the costs for H.R.925, as currently amended, is $188 million per year primarily for continuation of health care benefits.[18] The GAO study concluded that there would be no additional cost for replacing workers during leave, finding that replacement costs would not exceed savings from not paying salaries and benefits to absent workers.

In short, the claimed expenses appear to be greatly exaggerated. In addition, they fail to count the cost to society from increased claims for unemployment compensation and AFDC and Medicaid benefits because of job loss due to employees' serious health conditions or urgent family responsibilities. Nor do they count the economic suffering families experience because of job loss for these reasons. But, very importantly, they fail to count the cost to society of the emotional suffering or poor adjustment of children who never had an adequate opportunity for early bonding with their parents or who are not able to have their parents with them when they are seriously ill or injured.

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[18] The GAO's precise cost estimates for the different elements of the legislation are:

> Birth or adoption $90 million Seriously ill child $10 million Seriously ill parent $35 million Temporary medical leave $53 million

General Accounting Office, Report to the Subcommittee on Labor Management Relations, Committee on Education and Labor: Parental Leave - Estimated Costs of H.R. 925, The Family and Medical Leave Act of 1987 (November 1987).

It is expected that the Commission on Paid Family and Medical Leave will focus on social insurance schemes for payment for family and medical leave rather than on direct payment by individual employers. Most Western European countries provide payment for family and medical leave through a social insurance program of some sort.

The policies proposed by this resolution will begin the important task of establishing a national policy of accommodating work and family responsibilities in this era when the work of both men and women is essential to ensure adequate economic support for their families.

Respectfully submitted,

William L. Robinson, Chairman
Section of Individual Rights and
Responsibilities

February 1988

TESTIMONY OF GREGORY A. HUMPHREY
DIRECTOR OF LEGISLATION
AMERICAN FEDERATION OF TEACHERS, AFL-CIO
BEFORE THE SENATE LABOR & HUMAN RESOURCES COMMITTEE
SUBCOMMITTEE ON CHILDREN, FAMILY,
DRUGS AND ALCOHOLISM
ON THE FAMILY AND MEDICAL LEAVE ACT
February 2, 1989

Mr. Chairman and Members of the Subcommittee:

I am Gregory Humphrey, director of legislation for the American Federation of Teachers. On behalf of the 680,000 members of the AFT, I want to thank you for this opportunity to reiterate our views in support of enacting the Family and Medical Leave Act as soon as possible.

We would also like to convey our union's appreciation to the Chairman for his leadership on this issue over the past several years. This Committee came very close to insuring that working Americans can care for their families without losing their jobs in 1988. 1989 is the time to take the final step and enact this legislation.

The need for a national policy to address the changing demographics of our work force can no longer be ignored. The United States is one of the few industrial countries without a national policy and working adults are forced to make the intolerable choice between financial security and parenting.

The Family and Medical Leave Act is a modest piece of legislation. It simply provides job-protected unpaid time-off for families to meet their parental responsibilities and to deal with serious health conditions for themselves and their family members.

AFT strongly opposes efforts by the National School Boards Association and others to exclude school employees from the protections of this legislation. AFT represents more than 600,000 teachers and other school-related personnel in primary and secondary education. Our members have had significant experience with the effects of medical and parental leave policies and the lack thereof.

Contrary to the allegations of critics of this legislation, family and medical leave programs do not create disruptions in the classroom. Schools already must cope with finding substitutes and temporary replacements for teachers in many situations. For example, if a teacher is having a baby, or has a seriously ill child, or becomes temporarily disabled, he or she will take time off from work, with or without the bill. What this legislation mandates is not leave, but job protection for those who must take leave to meet family responsibilities. In addition, this bill only allows job protection for family emergencies and for intermittent non-emergency situations.

Public school employers have made the claim that interruption of education occurs when a new person takes over the class. This is true, yet, schools have always realigned classes to balance pupil load during the school year. Schools commonly require that teachers be released from classes to participate in evaluations related to teacher pay plans, inservice education, and related school activities. In Pittsburgh, the entire faculty at the secondary level was rotated every six weeks for evaluation. The school district showed no ill effects from this program; in fact, the image of the district was improved.

A teacher returning to class from leave in the middle of a semester is not necessarily disruptive to the educational process. Teachers currently return to work and take classes back from substitutes. The bill allows an employer, including a school, to place the employee returning from leave back in their old job or "an equivalent one". Thus, a teacher is not required to be placed back in the exact same classroom in the middle of the semester, but could fill in where needed in other classes, or perform other duties temporarily, such as curriculum review and development, training of new teachers, or administrative duties.

Any potential disruption will also be reduced by the bill's provisions requiring employees to provide advance notice of their leave when possible; to make a reasonable effort to schedule medical treatment so as not to disrupt the operations of the employer; and in the case of parental leave prohibiting intermittent leave or reduced leave without the consent of the employer.

This legislation will not place a financial burden on schools. The GAO has calculated that the cost to employers will be only $3.50 per covered employee, or about $110 per employee actually taking leave. GAO further found only about 1 in every 300 employees would be taking leave under the bill at a given time. These figures are in sharp contrast to the exaggerated lost figures used by opponents of this bill.

Finally, school employees, whether teachers, bus drivers, secretaries or administrators need parental and medical leave as much as any other workers. They have babies, get sick and suffer family emergencies the same as other employees. Schools should not be treated differently than all other employees.

Teachers and school employees deserve the same protections as any other workers covered by the bill, and should not be forced to choose between their job and their family responsibilities. The AFT believes the Family and Medical Leave Act is in the best interest of parents, children and our country and we urge you to support it, without exemptions, and to seek swift passage of this legislation.

opeiu#2/aflcio

STATEMENT
OF
THE INTERNATIONAL SANITARY SUPPLY ASSOCIATION
BEFORE THE
SENATE SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM
OF THE
LABOR AND HUMAN RESOURCES COMMITTEE

FEBRUARY 2, 1989

Mr. Chairman: My name is E. Allen James, and I am President of the International Sanitary Supply Association (ISSA). We appreciate the opportunity to submit this statement as part of the official hearing record on the Family and Medical Leave Act of 1989, which is before the Senate Subcommittee on Children, Family, Drugs, and Alcoholism (Labor and Human Resources Committee). We commend you and your colleagues for considering the status of employee benefits in this country.

ISSA is a voluntary non-profit membership association consisting of about 3400 companies, located in every state, that are engaged in the manufacture, formulating distribution and sale of antimicrobial and general cleaning and maintenance products used in institutional and industrial establishments such as hospitals, nursing homes, schools, restaurants, hotels and food processing plants. Our products include disinfectants, sanitizers, germicides and other products utilized to protect public health and safety. As such, our industry is heavily regulated under the authority of the Environmental Protection Agency and the Occupational Safety & Health Administration. Chemical products must be scientifically formulated and applied according to specific directions to avoid misuse.

ISSA members also produce brooms, brushes, plastic bags, deodorants, floor finishes and seals, floor maintenance pads, soap, mopping equipment, mops, rug and carpet shampoos, toilet bowl and drain cleaners, and paper products such as hand towels and toilet tissue. Collectively, we manufacture, produce and distribute almost $19 billion in goods and services.

By its very nature, the cleaning and maintenance industry is very competitive and labor intensive. The industry is essentially composed of small businesses (65% of ISSA's membership have sales under $2 million) employing less than 30 employees. These producers and formulators sell a wide variety of low volume, low profit products. As such, employee wages and benefits constitute a significant portion of the cost of doing business, and must be tailored to each company. Efficient management is a key to success.

Many of our members' customers provide cleaning and maintenance services and frequently employ less than 10 people. Neither we nor they operate on a high profit margin, and find ourselves constantly affected by the whims of the marketplace. Therefore, we must tightly control our costs, especially our benefits package.

Most companies offer a fair package of benefits depending on the size and nature of their operations. Currently, Federal law requires all employers to provide three types of worker benefits: Social Security, unemployment compensation, and workers' compensation. Other benefits, such as health care or pensions, are almost universally offered by large employers, primarily to attract and retain productive employees. Many small firms voluntarily offer benefits too; however, these benefits program may differ from those offered by larger employers reflecting the limited resources of small business and the different employee preferences. Small businesses strive to offer benefits which are most attractive to employees, otherwise they are at a competitive disadvantage if they are unable to offer these benefits.

ISSA members are not opposed to the granting of benefits, such as maternity leave or disability absence. We are opposed to a governmental program which mandates a benefit package. ISSA is a member of the Concerned Alliance of Responsible Employers (CARE) a coalition of trade associations, corporation and individuals which support the rights of employers and employees to decide the work and family benefits which are best suited to their individual and mutual needs.

Small employers strongly oppose any additions to the mandated benefits list. The recommendation to reject any type of mandated benefits was ranked second by delegates to the 1986 White House Conference on Small Business. Family leave was specifically mentioned as a benefit that small employers want to maintain as voluntary. The recommendation acknowledged the importance of balancing employees' family and workplace responsibilities, but supported creative alternatives developed by the private sector to address this issue. Employers across the Nation clearly favor maintaining a flexible fringe benefits system.

We at ISSA are opposed to a government mandated program which would impose across the board benefit requirements upon small business, for the following reasons:

1. Private Sector is Best Equipped: In an ever changing, fast paced, complex marketplace, the private sector is best equipped to provide a flexible and efficient response to a changing workplace environment. Cafeteria style plans, which allow employees to select specific benefits from a "menu" of choices, are an example of how the private sector has developed innovative approaches to provide benefit programs to meet the specific needs of its employee population.

Because it is necessary to keep highly qualified individuals in this business, each company must provide an attractive benefits package. However, this requires employers to tailor their benefit programs to fit the particular needs of their employees. Consequently, benefits differ from company to company reflecting the different needs of workers. Indeed, the job marketplace itself dictates the type of benefits a company must offer in order to attract the best employees. It is not necessary for the Government to intervene and mandate a new series of costly benefits.

2. Highly Technical Employees are Difficult to Replace by Temporary Workers: Many aspects of the cleaning and maintenance products industry cannot be efficiently run by "temporary" workers who have not been properly trained. When regular employees are forced by circumstances to take maternity leave or disability absence, our companies want them to have the privilege of taking the time they need and returning to their jobs, knowing that their employers care. While they are gone, the employer suffers a burden by having to train someone else for the interim, or reshuffling the workload to their employees. If this situation was mandated by law, the burdens would be greater because additional time would be mandated for such absences and additional employees, e.g. spouses, would be granted time by law to be absent from their job. Small business simply could not function in this manner.

Of particular importance is the fact that the manufacture and formulation of disinfectants, sanitizers, germicides and other antimicrobial products is a highly technical business, and the production must be conducted according to strict quality control criteria, subject to government scrutiny and enforcement. The employee is highly trained by each company and all attempts are made to keep good personnel. The use of temporary replacements is limited due to the need for training and education. When these employees are absent, the companies incur a significant loss of production.

3. A Mandated Leave Program Affects Other Benefits: It is also inevitable that a mandated leave program would have an adverse effect on the other benefits offered by small business. Many employers offer medical and dental insurance, disability payments,

sick leave, paid vacations, profit sharing and retirement plans. These benefits cost a company up to 37 percent of wages for each employee. These have been voluntarily provided without mandate from the government.

If mandated leave legislation is enacted, many employers would have to reduce or end some of these other benefits that in fact employees may prefer. Under these circumstances, mandated leave legislation would be detrimental to employee benefit programs.

4. Mandated Leave Policies Makes Us Less Competitive: If parental and disability leave (unpaid or paid) were mandated, our segment of the American economy could no longer be competitive. If we were unable to absorb or pass on the additional cost, then it would be inevitable that many companies would either curtail or cease their operations. The European economy is an example of such an economic malaise. Burdened by mandated benefits, European businesses have lagged far behind the U.S. in terms of job growth and general economic health.

5. Low Income Workers Would Not Be Benefited: In many cases low income workers can not afford to take unpaid leave, whether for maternity or disability. This segment of the work force depends on a steady income and can not afford extended unpaid leave whether it be for parental reasons or any of the other reasons provided for in the legislation. A more efficient solution would be for Congress to consider a new social welfare program, paid for by the government, not by business. Congress should also consider methods of encouraging business to provide such socially desirable benefits rather than forcing business to allocate their benefit program dollars elsewhere.

6. Mandated Benefits Will Curtail Employment Opportunities: With the passage of this type of legislation, we could not afford to offer the same type of employment opportunities to the widest segments of the population. We believe that employers would have to reassess the type of person it needs for producing or formulating sanitary products. The number of opportunities would necessarily decrease as employers would attempt to curtail anticipated expenses for certain types of workers. Business would have no incentive to expand and create new jobs. The hiring of younger workers, especially women, may be discouraged by such laws. Small firms hire more younger workers and nearly 60 percent of all working women. Overall, the U.S. economy would suffer because the vast number of jobs provided by small business in this country would be diminished.

7. Mandated Benefits Affects Small Businesses: The inability of an employer to replace a worker on extended leave is especially damaging to a small business. The absence of even one employee in a small business can disrupt a company's operation. It is not implausible that more than one employee could be on leave at any time, given the multiple types of leave proposed. In addition to disrupting business operations, the costs and administrative burdens of continuing health benefits, as well as financing and training temporary replacements, would disproportionately affect small employers who typically operate on a low-profit margin. Any mandate that increases payroll costs will inhibit a small business' ability to survive.

8. Federal Mandated Benefit Legislation is Not Necessary: In addition to voluntary employer provided benefits, states have taken an ever increasing role in enacting mandated benefits legislation making Federal action unnecessary. In this past legislative session alone, a number of states have enacted some form of job protected

leave and many more are likely to consider such legislation during the current session. By virtue of such local action, states are in a better position to implement such programs so that they reflect the needs of workers. While we firmly believe employers are the best judge of such decisions, we also believe that state legislatures are in a better position than the federal government in evaluating the needs of workers which vary significantly from region to region. Federal action in this area can only result in confusion created by conflicting state and federal laws.

CONCLUSION

In conclusion, we at ISSA do not oppose providing benefits to our employees, but we do strongly reject the motion that the Federal government should intervene into the marketplace to specifically require a mandated benefits program.

Small business, which is the greatest generator of new jobs and opportunities, needs the flexibility to offer a series of employee benefits, not a series of mandated responsibilities. If we as a society want to encourage job creation, increase competition, and stimulate productivity, we need to provide the needed benefits to take care of our employees without adversely impairing small business.

On behalf of ISSA and its member, I thank you for considering our position on this issue, and for appreciating that small business needs encouragement, not mandates, for taking care of its workers.

STATEMENT
OF
THE CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

INTRODUCTION

The Concerned Alliance of Responsible Employers (the Alliance) appreciates this opportunity to submit testimony on proposed legislation mandating that employers provide leave to employees for family and medical reasons.

The Alliance is a coalition of over 170 trade associations, professional societies, individual corporations and citizens groups. Its members represent manufacturers, wholesaler-distributors, retailers, restaurateurs, grocers, builders and all other sectors of the business economy. Overall, the Alliance consists of hundreds of thousands of individuals and over one million businesses, as well as the personnel administrators who oversee business' benefit plans and the school boards which administer the education of our children. A list of our members is attached.

The Alliance's mission is to support the rights of employers and employees to decide the work and family benefits which are best suited to their individual and mutual needs. The members of the Alliance believe that the private sector is best equipped and provides the most flexible and efficient response to the changing demands and requirements of its workforce.

EMPLOYERS ARE RESPONDING TO FAMILY NEEDS

In response to the growing number of workers with family responsibilities, employers have instituted a variety of programs to assist workers meet dual work-family demands. According to recent reliable statistics:

- Flexible scheduling has doubled in the past ten years;
- More than eighty percent of companies provide pregnancy leave;
- Unpaid maternity leave is granted to public employees in 44 states and unpaid paternity leave in 31 states;
- Forty-one percent of companies of 2,500 or more employees provide some kind of eldercare assistance and another 17 percent are considering such help;
- Although few firms currently provide child care benefits, 58 percent of respondents to a 1988 survey said their organizations are thinking about offering child care benefits;
- Fully 60 percent of all employers have work schedule policies that can aid parents in caring for their children.

Other private sector family and medical benefit initiatives include short and long term disability, employee assistance programs, flexible benefit accounts and adoption assistance.

Due to the changing demographics of the American workforce, employers have undergone an evolution in their benefit policies. Twenty-five years ago, maternity leave was a rarity; today it is a standard benefit. Flexitime is a concept which became a reality for many workers within a very short period of time.

Additionally, employers are expanding their benefits to include a greater number of older workers. Those benefits include prescription drug benefits, retiree health plans and long-term health care policies.

EMPLOYERS AND WORKERS HAVE UNIQUE NEEDS

Retention of experienced, trained workers is critical to a business' economic viability and its ability to compete in a global marketplace. Employers must be given the opportunity to change with changing times in order to respond to the ever-changing needs of their individual workforces. Those benefits are as unique as each company is itself. Some firms may employ workers who prefer a comprehensive catastrophic health benefit. Others may find that a cafeteria-style benefits plan best suits a wide variety of benefit needs, while still others may wish to implement a flexible time schedule in order to meet varied business cycles and the scheduling requirements of workers. The Alliance encourages employers to explore all avenues of accomodation and change to that end.

The Alliance does not support across-the-board government mandates which undeniably neglect to take into consideration the individual circumstances of each employer and the particular needs of the individuals in his or her workforce. While the intention of family and medical leave legislation may be, on its surface, an honorable one, the Alliance is convinced that mandating leave across-the-board will place much more at risk than any additional benefit it may bestow upon the American workforce.

WHAT'S AT RISK

In all businesses, benefit packaging is a zero-sum game. There are only so many dollars to distribute to all employees in a particular workforce. The types and feasibility of benefit packages differ for each employer based on a variety of factors, such as type of business or industry, size and skill of workforce, individual needs, competing standards in the industry by geographic location and the ability to absorb or pass on costs. It is simply impossible for government policy to decide for each of America's 112 million employees which benefit is the most important. When one particular benefit is mandated, other, perhaps more important benefits may be eliminated to accomodate the one mandated. For example, it is patently unfair to mandate that a benefit plan for a 55-year-old woman, for example, contain a parental leave provision when such a mandate might well preclude the offering of a benefit such as paid prescriptions, which is much more important for this particular employee. Concurrently, as mentioned earlier, many employers are exploring the implementation of day care assistance for workers with dependent children. An employer would be much less likely to voluntarily provide that benefit if he or she is forced to factor a mandatory leave element into a benefit package.

Further, one of the most important benefit problems for small to mid-level companies is the rising cost of basic health insurance. Legislating new benefits and requiring benefit coverage at employer cost during extended leave periods will only exacerbate that problem. Moreover, mandating benefits with continued coverage during the leave period will undoubtedly act as a disincentive for employers to offer health insurance.

COSTS AND PRACTICAL PROBLEMS

The cost of the proposed mandated leave is one which is difficult, if not impossible, to accurately estimate. The cost of an absent employee for an extended period of time would vary from employer to employer. For example, the absence of a top producing salesperson may be apparent to a company's bottom line; what may not be as apparent, but could be equally important, is the cost of the absence of an efficient and pleasant receptionist, from whom clients and customers receive their first impression of a company, or a skilled word processor operator who is essential to the smooth operation of a business.

Some employers face a unique problem relating to the terms of their collective bargaining agreements. To protect the security of current union employees, the maximum time any temporary may stay within the craft classification is 60 days. In other words, a temporary could actually become a "temporary replacement," such that more than one temporary would be required to cover the leave period.

The alternative solution -- covering for the missing employee with overtime from other workers -- presents another set of problems. If an employer foregoes a replacement and asks existing employees to fill in, he faces overtime costs at time-and-a-half or double time, less productivity, and employee morale problems.

Due to the competitive nature of today's business, necessary bid figures for contracts are usually quite precise and the margin for error slight. The concept of using overtime would require the employee, in order for the job to come in on time and within budget, to produce 150 percent of the normal hourly work. Practical reality indicates that this is not likely to happen. Overtime costs must then be absorbed by the business, reducing or eliminating profits.

Thus, not only are the problems inherent with leave mandates as varied as the different industries which make up the American economy, it is naive at best to assume that the value of each individual employee's contribution to the success or failure of an enterprise is inconsequential.

CONCLUSION

It is the Alliance's strongly-held position that the best public policy provides the most flexibility within the private sector. Our society is still exploring ways to adjust to the changing demographics of the workforce and there is a need to develop a new balance between the demands of work and the needs of family. Indeed, employers are and will continue to be part of the answer and those who are most flexible will certainly gain a competitive business edge. We strongly urge Congress to preserve that flexibility and oppose mandates which will jeopardize it.

CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

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CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

Steering Committee

American Association of Nurserymen
American Bakers Association
American Consulting Engineers Council
American Feed Industry Association
American Hotel & Motel Association
American Institute of Architects
American Machine Tool Distributors Association
American Meat Institute
American Retail Federation
American Society for Personnel Administration
American Subcontractors Association
Amway Corporation
Associated Builders & Contractors
Associated General Contractors
Association of the Wall & Ceiling Industries
BP America, Inc.
Bowling Proprietors' Association of America, Inc.
CF Industries, Inc.
Carnation Company
Citizens for a Sound Economy
Concerned Women for America
Family Research Council
Florists' Transworld Delivery
Food Marketing Institute
Frito-Lay, Incorporated
General Mills
Gillie's Restaurant, Inc.
International Association of Amusement Parks & Attractions
International Ice Cream Association
International Mass Retailing Association
International Sanitary Supply Association
Marriott Corporation
Merrill Lynch & Co. Inc.
Motor Vehicle Manufacturers Association
National American Wholesale Grocers Association
National Associaton of Chain Drug Stores
National Association of Chemical Distributors
National Association of Convenience Stores
National Association of Home Builders
National Association of Manufacturers
National Association of Tobacco Distributors
National Association of Wholesaler-Distributors
National Automobile Dealers Association

National Candy Wholesalers Association
National Club Association
National Fastener Distributors Association
National Federation of Independent Business
National Fisheries Institute
National Food Brokers Association
National Grocers Association
National Intergroup Inc.
National Lumber & Building Material Dealers Association
National Restaurant Association
National Retail Merchants Association
National School Boards Association
National School Transportation Association
National Wholesale Druggists' Association
PepsiCo
Philips Petroleum Company
Printing Industries of America
Revco
Sears Roebuck & Company
Small Business Legislative Council
Snack Food Association
Society of American Florists
United Fresh Fruit & Vegetable Association
Wholesale Florists & Florist Suppliers of America
Wine and Spirits Wholesalers of America

January 25, 1989

CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS
1725 K STREET, SUITE 710, N.W. WASHINGTON, D.C. • (202) 872-0885

CONCERNED ALLIANCE OF RESPONSIBLE EMPLOYERS

General Members

Air-Conditioning & Refrigeration Wholesalers
American Jewelry Marketing Association
American Supply Association
American Traffic Safety Services Association, Inc.
American Veterinary Distributors Association
Appliance Parts Distributors Association, Inc.
Associated Equipment Distributors
Association of Steel Distributors
Automotive Service Industry Association
Aviation Distributors & Manufacturers Association
Bearing Specialists Association
Beauty & Barber Supply Institute
Bicycle Wholesale Distributors Association
Biscuit & Cracker Distributors Association
Ceramic Tile Distributors Association
Columbia Steel Casting Company
Copper & Brass Servicenter Association
Council for Periodical Distributors Association
Council of Wholesale Distributors (NKBA)
Door & Hardware Institute
Explosives Distributors Association
Farm Equipment Wholesalers Association
Fire Suppression Systems Association
Fluid Power Distributors Association, Inc.
Food Industries Suppliers Association
Foodservice Equipment Distributors Association
General Merchandise Distributors Council
Health Industry Distributors Association
Hobby Industry Association of America
Independent Bakers Association
Independent Medical Distributors Association
Industrial Distributors Association
Institutional & Service Textile Distributors Assn.
International Sanitary Supply Association
International Truck Parts Association
Irrigation Association
Jewelry Industry Distributors Association
Machinery Dealers National Association
Motorcycle Industry Council
Music Distributors Association
National Appliance Parts Suppliers Association
National Association for Hose & Accessories Distributors

National Association of Aluminum Distributors
National Association of Container Distributors
National Association of Decorative Fabric Distributors
National Association of Electrical Distributors
National Association of Floor Covering Distributors
National Association of Marine Services
National Association of Meat Purveyors
National Association of Manufacturing Opticians
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National Association of Writing Instruments Distributors
National Beer Wholesalers Association
National Building Materials Distributors Association
National Business Forms Association
National Commercial Refrigeration Sales Association
National Electronic Distributors Association
National Food Distributors Association
National Frozen Food Association
National Independent Poultry & Food Association
National Industrial Glove Distributors Association
National Industrial Belting Association
National Lawn and Garden Distributors Association
National Locksmiths' Suppliers Association
National Marine Distributors Association
National Paint Distributors, Inc.
National Paper Trade Association, Inc.
National Plastercraft Association
National Printing Equipment & Supply Association, Inc.
National Sash & Door Jobbers Association
National School Supply and Equipment Association
National Solid Wastes Management Association
National Spa and Pool Institute
National Truck Equipment Association
National Welding Supply Association
National Wheel & Rim Association
National Wholesale Furniture Association
National Wholesale Hardware Association
Northamerican Heating & Airconditioning Wholesalers
North American Wholesale Lumber Association
Optical Laboratories Association
Outdoor Power Equipment Distributors Association
Pet Industry Distributors Association
Petroleum Marketers Association of America
Power Transmission Distributors Association
Safety Equipment Distributors Association
Scaffold Industry Association
Security Equipment Industry Association
Spring Service Association

Steel Service Center Institute
Textile Care Allied Trades Association
Toy Wholesalers' Association of America
United Pesticide Formulators & Distributors Association
Video Software Dealers Association
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Warehouse Distributors Association
Water and Sewer Distributors of America
Wholesale Florists & Florist Suppliers of America
Wholesale Stationers' Association, Inc.
WISE Incorporated
Woodworking Machinery Distributors Association
Woodworking Machinery Importers Association

January 5, 1989

ASSOCIATED BUILDERS
AND CONTRACTORS, INC.

Statement of Associated Builders and Contractors

MICHAEL R. PERKINS, PRESIDENT

S. 345, the FAMILY AND MEDICAL LEAVE ACT OF 1989

SUBMITTED
to the

SUBCOMMITTEE ON

CHILDREN, YOUTH, DRUGS, AND ALCOHOLISM
LABOR AND HUMAN RESOURCES COMMITTEE

U.S. SENATE

FEBRUARY 2, 1989

Speaking for the Merit Shop

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Mr. Chairman, on behalf of the 19,000 contractors, subcontractors, suppliers and associated member firms of Associated Builders and Contractors, I greatly appreciate this opportunity to submit our comments on S. 345, the Family and Medical Leave Act of 1989.

Associated Builders and Contractors (ABC) is a trade association representing the merit shop segment of the construction industry. Our member-run organization was established under the fundamental belief that the market system should remain free from unwarranted intrusion by the federal government into the day-to-day operations of private businesses. By fostering a competitive environment in the American marketplace, businesses will be forced to successfully cope with the myriad of changes in our society, such as technological advances, shifting consumer demands, and changing workforce demographics. Businesses must change to thrive, or even exist, in our fast-paced economy.

Turning specifically to the changes that are occurring, and will continue to occur, in the make-up of the American workforce, employers are finding that their benefits packages must be revised to accommodate the ever increasing number of women in the workforce. According to the Department of Labor's "Workforce 2000" report, 66 percent of the new entrants into the workforce in the year 2000 will be women. In response to this trend, and to a severe shortage of skilled workers that is currently affecting all segments of the construction industry, ABC strongly encourages contractors to offer alternate work schedules, child and dependent care programs, and flexible benefit plans to employees to help them balance the demands of work and family. However, Associated Builders and Contractors is adamantly opposed to a federally mandated employee leave policy, such as S. 345, because it strips construction employers of the flexibility needed in this seasonal, cyclical industry which employs many transient workers. Furthermore, it could be the crippling blow to an industry in the midst of a severe skilled worker shortage.

Construction has always been an industry of high employee turnover. When an economic downturn hits, construction firms are forced to downsize and slow recruitment of skilled workers. The recession of the early 1980's forced many companies into bankruptcy and many budding engineers to quit construction in pursuit of more "stable" careers. As a result, the current boom in construction, coupled with a demand for more sophisticated and specialized engineers, has placed construction owners in the predicament of being unable to obtain the skilled workers needed to meet his or her job demands. Employees with the know-how and experience are in short supply, especially in new fields such as hazardous waste and asbestos abatement. Consequently, construction firms, trade unions, and industry associations are spending well over $500 million each year to train unskilled workers, retrain current workers to keep up with the latest technology, and recruit students who are considering careers in engineering.

In keeping step with the projected pool of workers that employers will have to draw from, the construction industry has been doing outreach to bring more women into the construction trades. However, the percentage of women in the construction workforce remains very low. In 1986, only 1.9 percent of the 5,011,000 workers in the construction labor force were women. Unfortunately, many women still perceive construction work as low-tech, "macho" employment, despite employers' efforts to implement benefits, such as family leave, that would be attractive to women. Until women begin to view construction as a viable employment opportunity, a severe worker shortage will continue to plague construction.

The requirements of the Family and Medical Leave Act of 1989, if made law, could seriously jeopardize an employer's ability to meet deadlines on project agreements, often resulting in the loss of a contract. A replacement for an electrician taking 10 weeks of family leave must be another skilled electrician. A plumber or crane operator working on the same jobsite cannot "fill-in" or "cover" for that employee, as many proponents have predicted his or her duties would be assumed. In construction, each worker is specially trained in his or her unique craft. Like a machine, all parts, while serving a separate function, must be present for the machine to operate. In this time of shortage, it may be nearly impossible for employers in certain regions of the country to find skilled replacements for workers on extended leave. Under a worst case scenario, an employer could lose a contract because he or she could not complete the job in a timely manner. When a construction employer loses a job, construction employees are out of work.

Compounding the replacement problem is the extremely high turnover rate that prevails in the construction industry. It is not uncommon for the industry to experience a 45.5 percent turnover in its labor force during one quarter of a year. However, many projects do extend beyond the one year time frame. While our members do employ a core group of employees which they take from jobsite to jobsite, most employees are hired for work on a particular project. These employees would be able to fulfill the 900 hours and one year of service required in S. 345 to qualify for generous parental and medical leave benefits. However, they may not be employed much longer than one year by that particular employer. Under the current provisions of the Family and Medical Leave Act of 1989, employers would be provided no protection from employees who fulfill the vesting requirement, take leave, and then don't return or quit shortly after returning to work. While this could occur under any working situation, the impact would be especially acute in an industry like construction with very high levels of employee turnover.

In addition, the employer may not have a job for the employee when he or she decides to return. If a replacement can be found, and a project is completed, does the employer have a legal duty to carry the employee who took leave to another project? Certainly, the implications of requiring an employer to provide such extensive job protection are extraordinarily burdensome.

Mr. Chairman, while the intent of this legislation--to assist working families in balancing the demands of work and home--is a good one, the mandated approach will only prove to disserve employers and employees. As the Secretary of Labor testified in her Senate confirmation hearing, the voluntary approach _is_ best where employee benefits are concerned. Maintaining flexibility in the benefits arena will allow ABC members to adjust their benefit packages to suit the needs of their particular workforce, as it exists today and as it will exist in the 21st century.

Family Research Council
T.M. Gary L. Bauer, President

WRITTEN TESTIMONY

of
Gary L. Bauer

before the
Subcommittee on Labor Management Relations
of the House Education and Labor Committee

MR. CHAIRMAN, I WANT TO THANK YOU FOR THE OPPORTUNITY TO PRESENT WRITTEN TESTIMONY BEFORE YOUR SUBCOMMITTEE ON THE SUBJECT OF PARENTAL LEAVE LEGISLATION.

MR. CHAIRMAN, I WANT YOU AND THE MEMBERS OF YOUR COMMITTEE TO KNOW AT THE OUTSET THAT I STRONGLY ENDORSE MANY OF THE UNDERLYING PRINCIPLES BEHIND PARENTAL LEAVE LEGISLATION. I BELIEVE THERE IS MERIT TO ENCOURAGING PARENTS TO SPEND TIME WITH THEIR CHILDREN, PARTICULARLY WHEN THEIR CHILDREN ARE AT VULNERABLE STAGES IN THEIR DEVELOPMENT. MOREOVER, I BELIEVE THERE IS MERIT TO URGING EMPLOYERS TO RECOGNIZE THAT THERE ARE TIMES WHEN FAMILY RESPONSIBILITIES SHOULD TAKE PRECEDENCE OVER WORK OBLIGATIONS.

SO, THE CONCEPT OF PARENTAL LEAVE, THE CONCEPT OF GIVING EMPLOYEES A BREAK FROM WORK SO THEY CAN DEVOTE THEMSELVES TO MORE IMPORTANT FAMILY RESPONSIBILITIES IS BOTH SOUND AND PRAISEWORTHY.

MR. CHAIRMAN, AS I HAVE EXAMINED SOME OF THE PARENTAL LEAVE PROPOSALS NOW BEING CONSIDERED BY THE CONGRESS, I MUST TELL YOU THAT I HAVE SOME VERY SERIOUS CONCERNS ABOUT THE DIRECTION FEDERAL LEGISLATION IS TAKING. INDEED, I AM FEARFUL THAT MEMBERS OF YOUR COMMITTEE AND OTHER LEGISLATORS IN BOTH HOUSES MAY BE OVERLOOKING FOUR FUNDAMENTAL FLAWS IN THE CURRENT LEGISLATION.

1. NO MONEY

RATHER THAN PUSHING FOR A POLICY WHICH PROVIDES ECONOMIC ASSISTANCE TO THE PARENTS OF YOUNG CHILDREN, BOTH THE HOUSE AND SENATE VERSIONS OF THE FAMILY AND MEDICAL LEAVE ACT PROPOSE UNPAID LEAVE. ACCORDINGLY, PARENTAL LEAVE LEGISLATION WOULD NOT SIGNIFICANTLY HELP FINANCIALLY STRAPPED PARENTS WHO CANNOT EASILY AFFORD TO GO WITHOUT A PAYCHECK FOR AN EXTENDED PERIOD OF TIME. INSTEAD, THE CHIEF BENEFICIARIES OF THIS LEGISLATION WOULD BE RELATIVELY WELL-TO-DO PARENTS, A FACT WHICH HAS PROMPTED SOME CRITICS TO CALL UNPAID PARENTAL LEAVE "A WINDFALL FOR YUPPIES."

CLEARLY, PARENTAL LEAVE MUST BE ACCOMPANIED BY SOME TYPE OF ECONOMIC ASSISTANCE SO THAT FINANCIALLY-STRAPPED PARENTS CAN BETTER AFFORD TO TAKE TIME OFF TO BE WITH THEIR CHILDREN. WHILE REQUIRING THAT LEAVE BE PAID MIGHT APPEAR TO BE THE MOST LOGICAL MEANS OF OFFERING PARENTS SUCH SUPPORT, MANDATORY PAID LEAVE WOULD SIGNIFICANTLY INCREASE LABOR COSTS AND INVARIABLY CAUSE HIGHER UNEMPLOYMENT.

THUS, OTHER WAYS OF OFFERING ECONOMIC ASSISTANCE TO PARENTS -- INCLUDING THE CREATIVE USE OF TAX CREDITS -- MUST BE EXPLORED. OTHERWISE, PARENTAL LEAVE LEGISLATION WILL PROVE TO BE A BOON ONLY FOR UPPER-INCOME TWO-EARNER FAMILIES.

2. NO SIGNIFICANT VALUE

PARENTAL LEAVE'S PRIMARY OBJECTIVE IS TO GIVE FAMILY-ORIENTED EMPLOYEES TIME OFF FROM WORK TO ATTEND TO MORE IMPORTANT MATTERS AT HOME. ACCORDINGLY, ITS VALUE IS DIRECTLY TIED TO THE EXTENT OF LEAVE ALLOTTED, FOR IF THE TIME PERMITTED IS NOT SUFFICIENT TO MEET NEEDS AT HOME, THE LEAVE FAILS TO SERVE ITS INTENDED PURPOSE.

UNFORTUNATELY, THE EXISTING BILLS DO NOT OFFER A SUFFICIENT LEAVE PERIOD FOR PARENTS TO SPEND WITH YOUNG CHILDREN. BOTH THE 10-WEEK MAXIMUM CURRENTLY BEING PROPOSED AND THE 18-WEEK STANDARD THAT WAS ORIGINALLY OFFERED FALL WELL SHORT OF WHAT LEADING CHILD DEVELOPMENT EXPERTS SAY CHILDREN NEED. SOME EXPERTS, LIKE DRS. T. BERRY BRAZELTON AND EDWARD ZIGLER, SAY MOTHERS SHOULD DELAY WORK FORCE RE-ENTRY AT LEAST SIX TO TWELVE MONTHS AFTER THE BIRTH OF A CHILD. OTHERS, LIKE DRS. BURTON WHITE AND BYRNA SEGAL, SAY CHILDREN NEED PRIMARY CARE BY A MOTHER FOR AT LEAST TWO AND ONE-HALF TO THREE YEARS. STILL OTHERS, LIKE DRS. JAMES DOBSON AND RAYMOND MOORE, ARGUE THAT THE IDEAL SITUATION IS ONE WHERE CHILDREN RECEIVE PRIMARY MATERNAL CARE UNTIL THEY ENROLL IN SCHOOL.

WHILE THERE MAY BE SOME DISAGREEMENT AMONG PROFESSIONALS ABOUT HOW LONG CHILDREN NEED PRIMARY PARENTAL CARE, THERE IS AN OVERWHELMING CONSENSUS AMONG CHILD DEVELOPMENT EXPERTS THAT 10 TO 18 WEEKS IS NOT ENOUGH. INDEED, IT IS NOT EVEN CLOSE.

RECENT RESEARCH SHOWS THAT MATERNAL BONDING IS INHIBITED WHEN THE MOTHER KNOWS SHE WILL NOT BE STAYING HOME WITH HER BABY FOR AN EXTENDED PERIOD OF TIME. ACCORDING TO PSYCHOLOGIST JAMES DOBSON, "THE KNOWLEDGE THAT SHE WILL SUBMIT HER INFANT TO A CARETAKER SHORTLY AFTER BIRTH APPARENTLY CAUSES HER TO DISTANCE HERSELF FROM THE CHILD, EVEN PRENATALLY."

DESPITE SUCH FINDINGS, CURRENT LEGISLATION DOES ENJOY SUPPORT FROM SOME CHILD DEVELOPMENT EXPERTS AND CHILD ADVOCATES. THEIR THINKING IS, "HALF A LOAF IS BETTER THAN NONE." WHILE THIS RATIONALE CERTAINLY HAS SOME MERIT, I WONDER WHAT WOULD HAPPEN IF THIS LOGIC WERE APPLIED TO OTHER AREAS OF CHILD CARE. FOR EXAMPLE, WOULD ANYONE DARE SAY HALF A CRIB IS BETTER THAN NONE OR THAT HALF A DIAPER IS BETTER THAN NONE? I THINK NOT.

CLEARLY, A CHILD'S NEED FOR TIME WITH HIS PARENTS IS NOT GOING TO BE MET A "HALF A LOAF" LEAVE POLICY. INDEED, A PARENTAL LEAVE POLICY WHICH CALLS FOR ONLY 10 TO 18 WEEKS OF INTENSE PARENT-CHILD INTERACTION IS NOT REALLY MEETING CHILDREN'S NEEDS; IT IS MERELY ENGAGING IN DAMAGE CONTROL.

I HAVE A HARD TIME UNDERSTANDING WHY PARENTAL LEAVE SUPPORTERS ARE SO TIMID ABOUT CALLING FOR MORE EXTENSIVE LEAVE PERIODS. AFTER ALL, SOME INDUSTRIALIZED COUNTRIES, LIKE AUSTRIA AND SWEDEN, PERMIT UP TO ONE YEAR OF PARTIALLY-PAID PARENTAL LEAVE. AND THE U.S. GOVERNMENT OFFERS FIVE YEARS OF JOB-PROTECTED LEAVE TO ANYONE WHO ENLISTS IN THE ARMED SERVICES OR SERVES ON ACTIVE DUTY IN THE RESERVES. IF PARENTAL LEAVE CHAMPION CHRIS DODD REALLY BELIEVES IT IS TIME TO "FOLLOW THE EXAMPLE OF THE ARMED FORCES," WHY ARE HE AND HIS COLLEAGUES DEFINING LEAVE PERIODS IN TERMS OF WEEKS INSTEAD OF YEARS? WHY ISN'T HE PUSHING FOR A FIVE-YEAR LEAVE FOR PARENTS AS WELL?

PERHAPS PART OF THE REASON PARENTAL LEAVE ADVOCATES HAVE NOT PUSHED FOR LONGER LEAVES IS BECAUSE THEY FEAR EXTENDED TIME OFF FROM WORK WOULD HINDER CAREER ADVANCEMENT FOR WOMEN (WHO ARE CONSIDERED MORE LIKELY TO TAKE LEAVE THAN MEN). BUT RECENT RESEARCH SUGGESTS THIS FEAR IS LARGELY UNFOUNDED.

"MANY OF TODAY'S MOST SUCCESSFUL WOMEN HAD A SEQUENCING PATTERN TO THEIR LIVES," NOTES EDITH FIERST, A WASHINGTON LAWYER WHO HAS DONE RESEARCH ON SUCCESSFUL CAREER WOMEN. RATHER THAN TRYING TO JUGGLE CAREER AND FAMILY RESPONSIBILITIES SIMULTANEOUSLY, THESE "SEQUENCERS" TEMPORARILY INTERRUPTED THEIR PROFESSIONAL LIVES TO BE HOME WITH YOUNG CHILDREN.

AUTHOR ARLENE ROSSEN CARDOZO SAYS SEQUENCERS, "DO IT ALL, BUT NOT ALL AT ONCE -- THEY INTEGRATE IN ALL INTO A WHOLE LIFETIME." AMONG THE MOST PROMINENT SEQUENCERS ARE U.S. SUPREME COURT JUSTICE SANDRA DAY O'CONNOR (WHO TOOK OFF FROM WORK FIVE YEARS TO BE WITH HER CHILDREN) AND FORMER U.N. AMBASSADOR JEANE KIRKPATRICK (WHO DEVOTED NINE YEARS TO RAISING CHILDREN FULL-TIME).

3. NO RECIPROCITY

APART FROM FAMILY TO PROVIDE ON FINANCIAL ASSISTANCE OR AN ADEQUATE LEAVE TIME , CURRENT LEGISLATIVE PROPOSALS FAIL TO OFFER BENEFITS TO ANYONE BUT PARENTS.

ON THE FACE OF IT, THIS DOES NOT SEEM LIKE A SERIOUS CONCERN. AFTER ALL, SINCE THE GOAL OF PARENTAL LEAVE LEGISLATION IS TO ENCOURAGE PARENT-CHILD BONDING, WHY SHOULD ANYONE BE TERRIBLY INTERESTED IN THE BILL'S IMPACT ON NON-PARENTS?

THE REASON IS SIMPLE. SINCE NON-PARENTS ARE IN DAILY COMPETITION WITH PARENTS IN THE WORK WORLD, GOVERNMENT-MANDATED BENEFITS DESIGNED TO HELP EMPLOYED PARENTS WILL ACTUALLY DO MORE HARM THAN GOOD UNLESS RECIPROCAL BENEFITS ARE OFFERED TO OTHER EMPLOYEES. AS ALLAN CARLSON OF THE ROCKFORD INSTITUTE EXPLAINS, "SO LONG AS THERE ARE WORKERS WHO DO NOT VALUE THESE [PARENTAL LEAVE] BENEFITS, THE GAINS WON BY PARENTS SERVE ONLY TO HIGHLIGHT THEIR GREATER COST TO EMPLOYERS.

ACCORDINGLY, A MANDATED LEAVE POLICY WHICH DOES NOT OFFER RECIPROCAL BENEFITS TO OTHER EMPLOYEES CAN BE EXPECTED TO HAVE A CHILLING EFFECT ON THE HIRING AND PROMOTION OF FAMILY-ORIENTED WORKERS -- PARTICULARLY WOMEN OF CHILDBEARING AGE.

PERHAPS THE BEST MEANS OF OFFERING RECIPROCAL BENEFITS IS THROUGH A FLEXIBLE (OR CAFETERIA) BENEFITS PLAN. THESE PLANS GIVE EMPLOYEES THE OPPORTUNITY TO CHOOSE FROM A MENU OF BENEFIT OPTIONS, THEREBY ENABLING THE COMPANY'S BENEFIT PACKAGE TO BE TAILORED TO THE PARTICULAR NEEDS OF EACH EMPLOYEE. UNDER SUCH A PLAN, EMPLOYEES WHO DESIRE PARENTAL LEAVE CAN OPT FOR IT, WHILE THOSE WHO PREFER OTHER OPTIONS CAN CHOOSE SUCH BENEFITS.

4. NO FLEXIBILITY

ACCORDING TO LEAVE PROPONENT SYLVIA HEWLETT, PARENTAL LEAVE AND OTHER FAMILY-SENSITIVE WORK POLICIES (FLEX-TIME, CHILD CARE, JOB SHARING, PART-TIME WORK, HOME-BASED EMPLOYMENT, ETC.) CAN PAY SIGNIFICANT DIVIDENDS TO BUSINESSES IN IMPROVED MORALE, GREATER PRODUCTIVITY, AND HIGHER EMPLOYEE RETENTION.

WHILE THIS IS NO DOUBT TRUE IN SOME CASES, THERE ARE MANY BUSINESSES WHICH PERCEIVE THE COSTS OF PARENTAL LEAVE TO BE SIGNIFICANTLY GREATER THAN ITS BENEFITS. INDEED, MOST ORGANIZED OPPOSITION TO THE EXISTING PARENTAL LEAVE BILLS HAS BEEN GENERATED BY BUSINESS GROUPS CONCERNED ABOUT THE SHORT- AND LONG-TERM COSTS OF MANDATORY LEAVE ON EMPLOYERS -- COSTS WHICH INVARIABLY WOULD BE PASSED ON TO OTHERS.

FOR EXAMPLE, ONE OF THE GREATEST DRAWBACKS OF A GOVERNMENT-MANDATED LEAVE POLICY IS THAT IT COULD CAUSE SOME FAMILY-ORIENTED WORKERS TO LOSE OTHER, MORE DESIRABLE, EMPLOYEE BENEFITS (SUCH AS HEALTH INSURANCE) IF THEIR EMPLOYERS COULD NOT AFFORD TO OFFER BOTH.

IT SEEMS TO ME THE MOST APPROPRIATE PUBLIC POLICY RESPONSE TO THIS DILEMMA WOULD BE TO HELP BUSINESSES BEAR SOME OF THE COSTS OF PARENTAL LEAVE (AND THEREBY MAKE IT A MORE ATTRACTIVE AND AFFORDABLE EMPLOYEE BENEFIT). UNFORTUNATELY, THIS IS NOT THE TACK LEAVE PROPONENTS HAVE TAKEN.

RATHER THAN OFFERING INCENTIVES FOR EMPLOYERS TO ADOPT RESPONSIBLE WORK POLICIES, CURRENT LEGISLATIVE PROPOSALS ATTEMPT TO CRAM A LEAVE POLICY DOWN THEIR THROATS. RATHER THAN PUSHING FOR FLEXIBLE BUSINESS POLICIES, CURRENT PROPOSALS ATTEMPT TO FORCE EMPLOYERS TO ACCEPT A WATERED-DOWN LEAVE POLICY.

CLEARLY, AMERICAN'S FAMILY-ORIENTED WORKERS WOULD BE BETTER SERVED IF PARENTAL LEAVE ADVOCATES WOULD TRADE IN THEIR STICKS FOR SOME CARROTS. I SAY THIS BECAUSE FLEXIBILITY IS THE KEY TO MAKING THE WORK-PLACE MORE RESPONSIBLE TO THE NEEDS OF AMERICA'S FAMILIES. AND THE NEED FOR FLEXIBILITY SUGGESTS THAT THE FEDERAL GOVERNMENT'S ROLE IN PARENTAL LEAVE SHOULD BE ONE OF OFFERING INCENTIVES -- NOT ULTIMATUMS.

GOING AFTER THE WHOLE LOAF

ALLEVIATING ECONOMIC PRESSURE ON FINANCIALLY-STRAPPED FAMILIES IS THE MOST APPROPRIATE PLACE TO BEGINNING A QUEST FOR A "WHOLE LOAF" PARENTAL LEAVE POLICY. AS IT WAS NOTED EARLIER, UNLESS SOME TYPE OF FINANCIAL ASSISTANCE TO FAMILIES IS OFFERED, MANY PARENTS WILL FIND AN EXTENDED JOB LEAVE UNAFFORDABLE.

THE SIMPLEST AND MOST EQUITABLE WAY FOR THE FEDERAL GOVERNMENT TO ALLEVIATE ECONOMIC PRESSURE ON FAMILIES WITH CHILDREN IS TO SUBSTANTIALLY REDUCE THEIR TAX LIABILITY. INDEED, PART OF THE REASON PARENTS TODAY FACE SIGNIFICANT ECONOMIC CONSTRAINTS IS BECAUSE FAMILIES WITH CHILDREN HAVE BEEN FORCED TO BEAR AN INCREASING SHARE OF THE FEDERAL INCOME TAX BURDEN DURING THE LAST FOUR DECADES. IN 1950, A MEDIAN-INCOME FAMILY OF FOUR PAID TWO PERCENT OF ITS GROSS EARNINGS TO THE FEDERAL GOVERNMENT IN INCOME AND PAYROLL TAXES. TODAY, A MEDIAN-INCOME FAMILY OF FOUR PAYS 24 PERCENT OF ITS EARNINGS TO THE FEDERAL GOVERNMENT.

THERE ARE A NUMBER OF WAYS TO REDUCE THE TAX LIABILITY OF AMERICA'S PARENTS, BUT THERE IS PERHAPS NONE MORE PROMISING THAN UNIVERSALIZING THE CURRENT CHILD CARE TAX CREDIT. INDEED, SEVERAL DYNAMIC PROPOSALS TO UNIVERSALIZE THE CHILD CARE TAX CREDIT HAVE BEEN RECENTLY INTRODUCED.

THE GREAT VIRTUE OF THESE PROPOSALS IS THAT THEY DO NOT DISCRIMINATE AGAINST FAMILIES THAT CARE FOR THEIR OWN CHILDREN (AS THE CURRENT CHILD CARE TAX CREDIT DOES). AS SUCH, PROPOSALS TO UNIVERSALIZE THE CHILD CARE TAX CREDIT HELP ALL PARENTS OF YOUNG CHILDREN -- INCLUDING THOSE WHO TAKE LEAVE FROM THEIR JOBS TO CARE FOR YOUNG CHILDREN.

ADOPTING A UNIVERSAL CHILD CARE TAX CREDIT WOULD NOT ONLY FACILITATE PARENTAL CARE OF YOUNG CHILDREN, BUT IT WOULD ALSO PREVENT FEDERAL PRESCHOOL POLICY FROM BECOMING SCHIZOPHRENIC. IF CURRENT PARENTAL LEAVE LEGISLATION PASSED AND NO CHANGES WERE MADE IN THE EXISTING CHILD CARE TAX CREDIT, THE FEDERAL GOVERNMENT WOULD BE SIMULTANEOUSLY URGING PARENTS TO TAKE LEAVE FROM THEIR JOBS TO CARE FOR THEIR NEWBORNS WHILE OFFERING A TAX CREDIT ONLY TO THOSE WHO REFUSED SUCH LEAVE AND PAID FOR SUBSTITUTE CHILD CARE.

OFFERING JOB PROTECTION

WHILE TAX RELIEF TO FAMILIES WITH CHILDREN MAKES IT MORE AFFORDABLE FOR FINANCIALLY-STRAPPED PARENTS TO CARE FOR THEIR OWN CHILDREN, A UNIVERSAL CHILD CARE TAX CREDIT DOES NOT ADDRESS THE ISSUE OF JOB REINSTATEMENT OF PARENTS WHO TAKE OFF FROM WORK TO CARE FOR CHILDREN. TO ADDRESS THIS CONCERN, THE FEDERAL GOVERNMENT SHOULD OFFER TAX INCENTIVES TO BUSINESSES THAT OFFER FLEXIBLE BENEFIT PLANS WHICH INCLUDE PARENTAL LEAVE AND OTHER FAMILY-SENSITIVE EMPLOYEE BENEFITS.

GIVING TAX BREAKS TO BUSINESSES WHICH OFFER FLEXIBLE BENEFIT PLANS WOULD PROTECT THE COMPETITIVE POSITION OF EMPLOYED PARENTS AND ENSURE THAT PARENTAL LEAVE POLICIES DO NOT HAVE A CHILLING EFFECT ON THE HIRING AND PROMOTION OF FAMILY-ORIENTED WORKERS. IN ADDITION, CORPORATE TAX BREAKS WOULD HELP OFFSET SOME OF THE BUSINESS COST OF OFFERING FAMILY-SENSITIVE BENEFITS, THEREBY ENCOURAGING A PROLIFERATION OF THESE POLICIES.

TO ENCOURAGE BUSINESSES TO MAKE JOB-PROTECTED LEAVE PERIODS AS LONG AS POSSIBLE, THE GOVERNMENT COULD LINK THE SIZE OF CORPORATE TAX BREAKS TO THE LENGTH OF TIME GRANTED IN LEAVE. THE GREATER THE LEAVE PERIOD, THE GREATER THE TAX BREAK. AND SINCE ACTUAL PRACTICE IS MORE IMPORTANT THAN WRITTEN POLICY, TAX RELIEF WOULD NEED TO BE TIED TO THE AVERAGE LEAVE TAKEN RATHER THAN THE MAXIMUM ALLOWED.

AS FAR AS HEALTH BENEFIT CONTINUANCE IS CONCERNED, IT MAY BE APPROPRIATE TO MAKE THIS AN OPTIONAL BENEFIT. THOSE EMPLOYEES WANTING LEAVE WITH HEALTH COVERAGE WOULD FORFEIT SOME OTHER PERK AVAILABLE TO THOSE WANTING LEAVE WITHOUT HEALTH COVERAGE.

CORPORATE TAX BREAKS FOR ESTABLISHING FLEXIBLE BENEFIT PLANS WOULD NO DOUBT HELP MANY FAMILY-ORIENTED WORKERS. NOT ONLY WOULD CORPORATIONS BE MORE LIKELY TO OFFER SUBSTANTIAL JOB-PROTECTED LEAVE, BUT THEY WOULD ALSO BE MORE INCLINED TO EXPAND PART-TIME AND HOME-BASED WORK OPPORTUNITIES. THESE ARRANGEMENTS ENABLE PARENTS TO SIMULTANEOUSLY COMBINE EMPLOYMENT WITH CHILD-REARING, AND THEY OFTEN SERVE AS A CONSTRUCTIVE TRANSITORY ARRANGEMENT FOR PARENTS PURSUING A SEQUENCING STRATEGY TO CAREER AND FAMILY GOALS.

THE QUESTION OF AFFORDABILITY

NATURALLY, AN INCENTIVE-BASED PARENTAL LEAVE POLICY WOULD REDUCE FEDERAL REVENUES. CONSEQUENTLY, SOME TIGHT-FISTED LEGISLATORS WOULD UNDOUBTEDLY VIEW THIS PROPOSAL AS UNAFFORDABLE IN LIGHT OF THE CURRENT BUDGET DEFICIT.

WHILE CONCERN FOR THE DEFICIT IS WHOLLY APPROPRIATE, THERE IS NOTHING WHICH SAYS THAT TAX CREDITS FOR PARENTS AND TAX BREAKS FOR FAMILY-SENSITIVE EMPLOYERS COULD NOT BE OFFSET BY CONCOMITANT REDUCTIONS IN GOVERNMENT SPENDING. SURELY EVEN THE MOST ARDENT DEFENDER OF BIG GOVERNMENT WOULD ACKNOWLEDGE THAT THERE ARE FEDERAL SPENDING PROGRAMS THAT COULD WITHSTAND SOME REDUCTION.

THUS, WHEN LEGISLATORS SAY TAX RELIEF FOR FAMILIES CANNOT BE AFFORDED, WHAT THEY ARE REALLY SAYING IS THAT HELPING FAMILIES IS NOT HIGH ON THEIR LIST OF PRIORITIES.

THE BOTTOM LINE

PERMITTING PARENTS TO TAKE OFF FROM WORK TO BE WITH THEIR YOUNG CHILDREN IS TOO IMPORTANT AN IDEA TO HAVE RUINED BY A MANDATORY PARENTAL LEAVE POLICY. IF FEDERAL LEGISLATORS REALLY WANT TO MAKE IT POSSIBLE FOR FAMILIES TO CARE FOR THEIR OWN CHILDREN DURING THE CRITICAL EARLY STAGES OF LIFE, THEY SHOULD PROVIDE TAX RELIEF TO PARENTS OF YOUNG CHILDREN AND TAX INCENTIVES TO BUSINESSES THAT ADOPT RESPONSIBLE WORK POLICIES.

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Shirley McVay Wiseman
1989 President

March 2, 1989

The Honorable Edward M. Kennedy
Subcommittee on Children, Family,
Drugs and Alcoholism
315 Russell Building
Washington, DC 20510

Dear Senator Kennedy:

The National Association of Home Builders (NAHB), a trade association representing more than 155,000 members, is pleased to submit a statement for the hearing record concerning S.345, the Parental and Medical Leave Act.

Several changes were made to similar legislation last year on the Senate floor, such as lowering the number of weeks of leave an employee can take and raising the threshold of coverage to businesses of 50 or less employees, to address some of the concerns raised by the small business community. We applaud those changes and urge the Subcommittee to raise the exemption in S.345 for businesses to 50 or less workers instead of the lower threshold of 20 or less workers.

Small business employers need to have the flexibility to provide the benefits that best suit their employees and afford the costs of such benefits. In a small firm, employees tend to have diverse responsibilities and are therefore not as easily replaceable. Consequently, the costs a small business employer would have to endure for the training of a replacement, particularly in view of the expected return of the employee on leave, will be extremely burdensome.

Furthermore, enacting a mandated parental and medical leave law that essentially destroys the flexibility between employers and employees to tailor benefits to individual and company needs will inevitably result in the loss of other benefits to compensate for the costs of the new leave requirements.

NAHB believes a reasonable alternative to a law mandating Parental and Medical Leave is to encourage companies to voluntarily provide similar leave benefit packages as proposed in this legislation. By doing this, small businesses would be given the opportunity to gradually adjust their leave benefit packages without creating an economic and administrative nightmare.

NAHB appreciates the opportunity to submit this statement for the hearing record, and urges the Subcommittee to consider these comments during further deliberations on this legislation.

Sincerely,

Shirley McVay Wiseman

Shirley McVay Wiseman
President

United States General Accounting Office

GAO Testimony

For Release
on Delivery
Expected at
10:00 a.m. EST
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February 2, 1989

GAO's Cost Estimate of the Family and Medical Leave Act Proposal

Statement of
William J. Gainer, Director,
Education and Employment
Human Resources Division

Before the
Subcommittee on Children, Families, Drugs, and Alcoholism
Committee on Labor and Human Resources
United States Senate

SUMMARY OF GAO TESTIMONY BY WILLIAM J. GAINER ON GAO'S COST ESTIMATE OF THE PROPOSED FAMILY AND MEDICAL LEAVE ACT

The proposed family and medical leave legislation would provide job protection to employees of firms with 20 or more employees while permitting them 10 weeks of unpaid leave to care for a new or seriously ill child or parent and 13 weeks of unpaid leave due to their own illness. The proposal requires that employers continue health benefits for workers while on unpaid leave on the same basis as if the employee were still working.

GAO estimates that the annual employer cost of this proposal will be, at most, $236 million, which is the cost of continuing health insurance for employees on unpaid leave. To the extent that some firms already provide workers family and extended disability benefits or have either disability or family leave benefits under existing state law, this proposal's cost to employers will be less than GAO's estimate.

GAO believes that there will be little, if any, measurable net employer cost caused by firms' adjustment to the temporary absences of workers under this proposal. In addition, GAO concludes that legislating family and medical leave benefits will have little, if any, impact on either the labor-management bargaining process or the final outcome of such negotiations.

Leave to Care for New Children -- GAO estimates that the cost to employers associated with this provision will be approximately $117 million annually for the continuation of health benefits. GAO estimates that 1 million women are likely to use such leave.

Leave to Care for Seriously Ill Children -- GAO estimates that this provision's annual employer health insurance cost is about $11 million. Using national health statistics, defining serious illness as 31 or more days of bed rest, and assuming that one parent takes unpaid leave to care for each child, about 72,000 workers would likely take an average of 7.8 weeks of leave.

Leave to Care for Seriously Ill Parents -- GAO estimates that this provision's employer health insurance cost is about $42 million annually. Using national health statistics, we estimate that about 200,000 workers would be eligible for unpaid leave to care for parents with serious disabilities.

Temporary Medical Leave -- GAO estimates that this provision's employer health insurance cost is about $66 million annually. Again using national health data, about 743,000 workers would likely take an average 8.6 weeks of unpaid leave under this provision.

Mr. Chairman and Members of the Subcommittee:

I am pleased to provide an update of GAO's estimate of the costs of the proposed family and medical leave legislation. My purpose today is to provide an estimate of the revised proposal, reflecting changes in coverage and other provisions, and comment on the potential effects of such legislation on labor-management wage and benefit bargaining.

We have used the same basic methodology utilized earlier in developing cost estimates for this Committee. To facilitate comparison between the different proposals, we did not modify certain cost related factors that have changed since our original estimate, notably employer health insurance costs, the number of births occurring and the size of the workforce. To get a sense of how family and medical leave legislation could constrain wage bargaining, we contacted several public and private employers and labor representatives that have negotiated for such benefits.

While the process of estimating the costs associated with this proposal is difficult and subject to uncertainty, we have made every effort to obtain data which provide a concrete basis upon which to make the necessary underlying assumptions.

- In brief, we estimate that the primary cost to employers associated with this proposal will be, at most, $236 million annually. This cost is associated with the requirement that employers continue the health insurance coverage for employees on unpaid leave.

- The actual cost to employers for providing continued health insurance coverage for workers on unpaid leave is likely to be less than our estimate, in that some firms already offer unpaid leave similar to this proposal and a number of states have comparable leave laws.

- We conclude that there will be little, if any, measurable net cost to employers associated with a firm's method of adjusting to workers taking leave under this proposal.

- The proposed family and medical leave benefits is not expected to adversely constrain the process of negotiating wage and benefit packages between workers and their employers.

Before elaborating, I would like to briefly summarize the key provisions of the proposed legislation.

KEY PROVISIONS

The proposal would require federal, state, and local governments and any company with 20 or more employees to grant a worker:

- up to 10 weeks of unpaid leave over a 24-month period upon the birth or adoption of a child, or serious health condition of a child or parent, and
- up to 13 weeks of unpaid leave over a 12-month period, for a serious health condition.

The employer would be required to continue health benefits for a worker on unpaid leave on the same basis as if the employee were working. Other benefits, such as life insurance and retirement, need not be continued. Upon returning to work, an employee would resume the same, or an equivalent job. Consequently, this proposal can be viewed principally as a job protection measure.

To estimate employer health insurance costs, we used data from a 1987 Small Business Administration (SBA) study of employee benefits in small and large firms. We computed the average employer portion of health insurance coverage to be about $25.00 a week for each worker. This estimate averages the differences in cost and rate of coverage between large and small employers, and for family versus individual plans.

This proposal would apply to the 47 percent of employees who are full-time or permanent part-time employees of firms with 20 or more workers. The 88 percent of U. S. firms that have fewer than 20 workers would be excluded.

LEAVE TO CARE FOR NEW CHILDREN

We estimate that the cost for health care continuance for workers on unpaid leave to care for new children will be about $117 million annually. To the extent that firms already offer unpaid leave similar to this proposal (which we were unable to satisfactorily estimate although we know some do), and to the extent that some states have comparable leave laws, the actual cost to employers of providing continued health insurance coverage to workers on leave will be less than our estimate. Certain key facts regarding our estimate are shown in the chart.

Leave to Care for New Children

Likely Beneficiaries	o Very few men o 1 million women
Expected Leave Usage	o 10 weeks, the maximum allowed
Existing Leave Policies	o 29 percent of women have 6 weeks disability leave
Expected Cost	o Less than $117 million

We believe that leave to care for new children is used predominantly by women. Studies in the United States and in other countries that allow such leave for men as well as women, in addition to our own survey of companies, support this position. While it may be expected that some change in the behavior of men may result from this proposal, it is unlikely that enough men will take leave to materially affect the cost. Thus, we consider women to be the relevant population upon which to base our estimate. According to the March 1987 Current Population Survey (CPS), about 2.2 million women workers in 1986 gave birth (or adopted children). Given the firm size exclusion, about 1.02 million women would have been eligible for leave under this provision.

We assumed that women will take the full 10 weeks of leave allowed by the proposal. We allowed 6 weeks of disability leave for the 29 percent of women in firms providing such leave. In addition, some women have paid sick and vacation leave available to use following childbirth.

LEAVE TO CARE FOR SERIOUSLY ILL CHILDREN

We estimate the cost to employers of continuing health coverage for workers on unpaid leave under this provision is about $11 million annually, as shown in the chart.

Leave to Care For Seriously Ill Children

Likely Beneficiaries	o Workers with children having 31 or more days bed rest o 72,000 workers
Expected Leave Usage	o 7.8 weeks average length of illness o One parent takes off the entire period
Existing Leave Policies	o 1.6 weeks paid vacation leave
Expected Cost	o Less than $11 million

We assumed that one parent from 100 percent of the households in the eligible population would take leave for the full duration of their child's illness. This was necessary because we were unable to identify any information on the usage of leave to care for seriously ill children due to its low incidence and because firms do not keep records on such absences. Further, we assumed that these workers would have, on average, 1.6 weeks of compensated vacation leave available prior to taking unpaid leave.

Using information from the 1985 National Health Interview Survey conducted by the National Center for Health Statistics, we estimate that the number of workers likely to take leave under this provision is about 72,000. This is the number of workers with children under the age of 18 requiring 31 or more days of bed rest in one year, where either two parents were present and working or a single working parent was present. We assumed that each illness would result in one worker being absent for the full period of bed rest, an average of 7.8 weeks.

LEAVE TO CARE FOR SERIOUSLY ILL PARENTS

We estimate the cost to employers of continuing health coverage for workers on unpaid leave under this provision is about $42 million annually.

Leave to Care For Seriously Ill Parents

Likely Beneficiaries	o Workers with a parent requiring long-term assistance o 200,000 workers care for disabled parents
Expected Leave Usage	o 10 weeks, the maximum allowed
Existing Leave Policies	o 1.6 weeks paid vacation leave
Expected Cost	o Less than $42 million

Using information from the 1982 National Long-Term Care Survey conducted by the Bureau of the Census for the Department of Health and Human Services, we estimate that about 200,000 workers would be in a position to take leave under this provision. This is the number of workers who are primary caregivers to Medicare enrollees who require long-term assistance. Long-term assistance is defined as daily assistance with personal hygiene, indoor mobility, or taking medication. A primary caregiver is someone with the main responsibility of caring for the disabled person. This estimate of the eligible number of workers is probably an overestimate because it includes, in addition to the children, sons- and daughters-in-law of the care recipient, their siblings, grandchildren, other relatives, and friends not covered by the proposal. We were unable to factor out of this population those not covered.

We assumed that each worker would take the maximum length of leave allowed under the proposal because we have no information to provide us with another estimate. Further, we assumed that these workers would use their vacation leave, which averages 1.6 weeks, before taking unpaid leave.

TEMPORARY MEDICAL LEAVE

We estimate that the cost of this provision will be about $66 million, annually.

Temporary Medical Leave

Likely Beneficiaries	o Workers with 31 or more days bed rest o 743,000 workers
Expected Leave Usage	o 8.6 weeks average length of illness
Existing Leave Policies	o 29 percent have disability coverage
Expected Cost	o Less than $66 million

Again using the 1985 National Health Interview Survey, and defining an employee's serious illness as 31 or more days of bed rest, we estimate that about 743,000 workers would be eligible under this provision. The duration of illness averaged about 8.6 weeks. Because 29 percent of employees are covered by their employers' short term disability plans which generally provide for 26 weeks of partially compensated leave, the cost estimate for this provision covers the 71 percent of workers having only some sick and vacation leave available.

ROLE OF FAMILY LEAVE IN LABOR-MANAGEMENT BARGAINING

Family and medical leave benefits are likely to have little, if any, measurable impact on either the labor-management bargaining process or the final outcome of such negotiations. While removing any component of employee compensation from negotiations, by definition limits the range of bargaining and could be expected to have some effect, the magnitude of impact of legislating such a low cost benefit as uncompensated family and medical leave, is likely unobservable. Furthermore, in a series of discussions with private and public employers and employee organizations that have negotiated for family and medical leave benefits, neither management nor labor representatives believed that the costs associated with parental leave were large enough to result in trade-offs with other components of the negotiated compensation package.

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To sum up, we estimate the overall cost of this proposal as presently drafted is, at most, $236 million annually. The actual cost is likely to be less when all existing coverage is factored out of the estimate. Specifically:

-- some firms, (principally the larger ones) already have family and medical leave policies similar to the provisions of this proposal,

-- several states have either disability and/or family leave statutes under current law, and

-- although formal policies generally do not exist, many employers already make accommodations to employees who are ill or have children or parents who are ill for extended periods of time.

In addition, because we were unable to obtain estimates of actual usage by workers, we likely overstate the number of workers taking leave and the length of leave likely to be taken.

We estimate that the rate of usage under the provisions of this proposal will be equivalent to less than 1 in 275 workers being absent at any time. The most important benefit the proposal provides is job protection which could also reduce job turnover. Improved employee morale and a more experienced, loyal, and committed work force are other intangible, and perhaps unmeasurable, potential benefits of this proposal.

To update our estimates to reflect 1988 conditions, employer health insurance costs, the number of births and total employment figures would have to be adjusted. Health insurance premiums increased about 23 percent between 1985 and 1988, which would affect the cost of all of the proposal's provisions. Births have increased by about 4.2 percent, thus raising the number of likely beneficiaries covered by the provision providing leave to care for new children. Finally, total employment has expanded by approximately 7.5 percent, affecting the other provisions of the proposal. Overall it would increase the cost of this proposal by about 30 percent..

GAO

Summary of Costs of Family and Medical Leave

Provision	Likely Beneficiaries	Cost (millions)
Care for New Children	1,023,000	$117
Care for Seriously Ill Child	72,000	11
Care for Seriously Ill Parent	200,000	42
Temporary Medical Leave	743,000	66
Total	2,038,000	$236

GAO Leave to Care for New Children

Likely Beneficiaries	• Very few men • 1 million women
Expected Leave Usage	• 10 weeks, the maximum allowed
Existing Leave Policies	• 29 percent of women have 6 weeks disability leave
Expected Cost	• Less than $117 million

GAO Leave to Care for Seriously Ill Children

Likely Beneficiaries	• Workers with children having 31 or more days bed rest • 72,000 workers
Expected Leave Usage	• 7.8 weeks average length of illness • One parent takes off the entire period
Existing Leave Policies	• 1.6 weeks paid vacation leave
Expected Cost	• Less than $11 million

GAO Leave to Care for Seriously Ill Parents

Likely Beneficiaries	• Workers with a parent requiring long-term assistance • 200,000 workers care for disabled parents
Expected Leave Usage	• 10 weeks, the maximum allowed
Existing Leave Policies	• 1.6 weeks paid vacation leave
Expected Cost	• Less than $42 million

GAO Temporary Medical Leave

Likely Beneficiaries	• Workers with 31 or more days bed rest • 743,000 workers
Expected Leave Usage	• 8.6 weeks average length of illness
Existing Leave Policies	• 29 percent have disability coverage
Expected Cost	• Less than $66 million

Report to
The Connecticut Task Force
to Study Work and Family Roles

ISSUES OF PARENTAL LEAVE:

ITS PRACTICE, AVAILABILITY, AND FUTURE FEASIBILITY IN THE STATE OF CONNECTICUT

Submitted by

The Bush Center in Child Development and Social Policy

Yale University

October 1988

THE CONNECTICUT SURVEY

In 1987, Connecticut lawmakers passed Public Act 87-291, which ensured that employees who work in the public sector can take a leave to attend to a newly adopted or newborn child, or to take care of a seriously ill child (or dependent parent). In effect July 1, 1988, this law provides up to 24 weeks of unpaid parental/family leave within any two-year period, with a guaranteed return to the same or comparable job. A number of restrictions and conditions apply.

Having made parental and family leave provisions for state employees, Connecticut's lawmakers are now considering whether a legislated leave is necessary to provide private sector employees with similar options. Connecticut has in effect a statute which seeks to provide statewide protection to working women who become pregnant by requiring all employers to provide "reasonable leave of absence for disability resulting from pregnancy." Disabilities resulting from childbirth and pregnancy are addressed by Connecticut General Statute Ann. ´´ 46a-60(a)(7)(West Suppl 1986), which seeks to ensure that no woman worker is terminated because of pregnancy and that these women are guaranteed a return to the same or comparable job. However, the phrase "reasonable leave of absence" is discretionary in nature, and the actual length of leave can be determined by the supervisor or employer. Additionally, testimony at the Connecticut regional hearings indicated that provisions of the statute are not always followed by Connecticut employers.

Due to the limitations of the above statute it is necessary to establish whether private sector employees have the option of a leave in absence of legislation. National surveys on the availability of leaves in the private sector (see Appendix E), were found to be inappropriate as the means of drawing conclusions on the status of parental leave in Connecticut. For this reason, a state-wide survey was conducted, drawing on a random sample of 2000 firms of varying sizes, geographic locations, and types of industry.

PROCEDURE

The sample for the survey was drawn from Dunn's Marketing Services. The sample was restricted to firms with 10 or more employees. However, a number of respondents indicated that fewer than 10 employees worked in their firms. The original sample contained 1990 firms; 621 firms returned the mail survey, and 132 interviews were completed by telephone for a total response of 753 firms. With the survey sample of 1990 firms, the overall response rate was 37.8%. The responses of firms which reported fewer than 10 employees (116 firms) were not used in the analysis (these firms represented 15.4% of the respondents). Response rate was proportional to firm size: among firms of 500 or more employees, the response rate was 90%; among firms of 100-499 employees, 73.7%; among firms of 50-99 employees, 49.8%; and among firms with fewer than 50 employees, 28.8%.

All charts in the analysis are presented by firm size; hence no weights were used. A copy of the survey questionnaire is included in Appendix F. A modified shorter version was used for the telephone survey. Firms were asked to report on a number of different leave categories, and the questionnaire was divided into questions about three major leave groups: leaves for sickness and temporary disability; maternity and parental leave; and other leave policies. Leave-related concerns were also surveyed: respondents answered questions about benefits and guarantees during leave; the ways in which they handled work during leaves; terminations because of leave needs; and alternatives to leaves.

The questionnaire made important distinctions between the types of leave practiced, determining whether a firm uses sick leave, vacation leave, or unpaid leave for maternity reasons, or whether it has a maternity leave or infant care leave plan distinct from other types of leave. The survey provides data on the availability of disability/maternity leaves and infant care leaves in Connecticut; the percentage of employers in Connecticut who provide these types of leave as separate leave categories; the percentage of employers who use existing categories of leave (vacation, sick, unpaid leave) in order to provide maternity and parental leaves; and the percentage of employers not providing these leaves at all.

MAJOR FINDINGS

I. Incidence of Sick Leave and Parental Leave Policies

Charts I.A and I.B present the incidence of separate parental leave policies and of combined sick and parental leave policies. These results combine responses from the telephone follow-up survey, which was restricted to questions concerning the incidence of leave, and the mail survey, which contained extensive questions on leave policies and benefits. The mail survey also asked respondents to differentiate among three separate employee classifications--managers, clerical workers, and production workers. Firms interviewed by phone tended to report a higher incidence of leave policies than did firms that responded by mail. The results in Charts I.A and I.B indicate whether a firm provides leave to at least some employees. Since leave policies are not standardized across employee groups, the results do not provide information on the percentage of employees within firms that are covered by these policies.

Chart I.A presents the extent to which firms offer parental leave policies that are separate from their other leave policies for sickness and disability. In this chart, a classification of "NO PARENTAL LEAVE POLICY" does not imply that no disability leave is available. Instead this classification indicates that the firm provides no leave to cover pregnancy and childbirth-related disabilities over and above its other leave polices. Chart 1.A indicates that ***most firms, no matter how many workers they employ, do not offer separate parental leave policies for either disabilities or for infant care. Even in the largest firm size group, which contains a substantial number of firms with more than 1000 employees, only 13.9% of the firms offer job-protected infant care leave. This percentage is proportional to firm size and declines to 13.1% for firms with 100−499 employees, to 7.3% for firms with 50−99 employees, and to 3.6% for the smallest firms (10−49 employees). For no firm size group does the incidence of separate parental leave policies for disabilities from pregnancy and childbirth exceed 15 percent.***

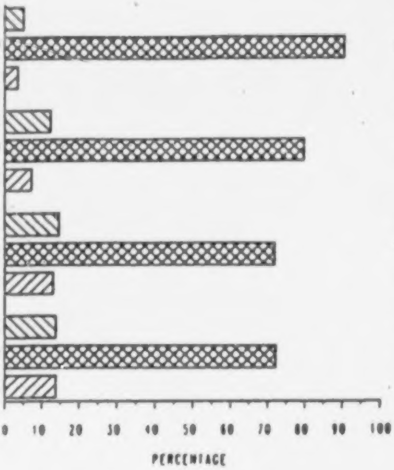
Chart 1.B shows the extent to which parental leave is provided either through existing sick leave and temporary disability leave policies or through supplemental parental leave programs. When the results from Chart 1.B are interpreted in light of Chart 1.A, we see that ***most maternity leave coverage stems from standard firm policies regarding leave for sickness and disability. The percent of firms offering no job-protected leaves drops from 91.2% to 48.7% for the smallest firms, from 80.2% to 29.2% for firms with 50−99 employees, from 72.1% to 19.1% for medium-sized firms (100−499) and from 72.3% to 20.8% for the largest firms (500 or more employees).*** Where a firm has job-protected sickness and disability leave, protection exists for pregnancy and childbirth-related disabilities. ***Infant care leave, however, is not covered under these sick leave and disability policies. Infant care leave presents a category of need that has no counterpart in existing leave policies. Hence a lack of a separate infant care policy represents a need for leave that is not met via existing leave policies.***

CHART 1.A

PARENTAL LEAVE POLICIES

TELEPHONE AND MAIL SURVEY COMBINED

EMPLOYEES	LEAVE POLICIES	FREQ	CUM. FREQ	PERCENT	CUM. PERCENT
10-49	DISABILITY LVE	16	16	5.21	5.21
	NO POLICY	280	296	91.21	96.42
	INFANT CARE LVE	11	307	3.58	100.00
50-99	DISABILITY LVE	12	12	12.50	12.50
	NO POLICY	77	89	80.21	92.71
	INFANT CARE LVE	7	96	7.29	100.00
100-499	DISABILITY LVE	18	18	14.75	14.75
	NO POLICY	88	106	72.13	86.89
	INFANT CARE LVE	16	122	13.11	100.00
500 OR MORE	DISABILITY LVE	14	14	13.86	13.86
	NO POLICY	73	87	72.28	86.14
	INFANT CARE LVE	14	101	13.86	100.00



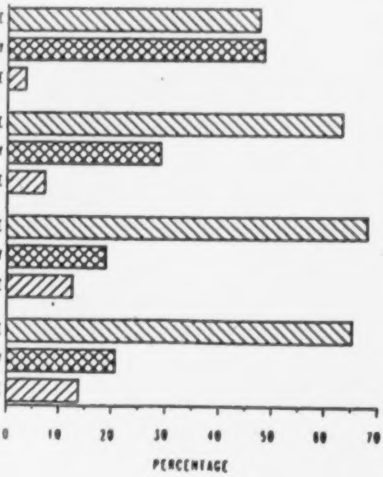
WITH GUARANTEE OF SAME OR COMPARABLE JOB

CHART 1.B

COMBINED SICK AND PARENTAL LEAVE POLICIES

TELEPHONE AND MAIL SURVEY COMBINED

EMPLOYEES	LEAVE POLICIES	FREQ	CUM. FREQ	PERCENT	CUM. PERCENT
10-49	DISABILITY LVE	148	148	47.74	47.74
	NO POLICY	151	299	48.71	96.45
	INFANT CARE LVE	11	310	3.55	100.00
50-99	DISABILITY LVE	61	61	63.54	63.54
	NO POLICY	28	89	29.17	92.71
	INFANT CARE LVE	7	96	7.29	100.00
100-499	DISABILITY LVE	86	86	68.25	68.25
	NO POLICY	24	110	19.05	87.30
	INFANT CARE LVE	16	126	12.70	100.00
500 OR MORE	DISABILITY LVE	66	66	65.35	65.35
	NO POLICY	21	87	20.79	86.14
	INFANT CARE LVE	14	101	13.86	100.00



WITH GUARANTEE OF SAME OR COMPARABLE JOB

2. Leaves for Pregnancy and Childbirth-Related Disabilities

Charts 2.A to 4.C show the incidence and length of different types of leave policies. In all 9 of these charts, a firm is listed as providing a leave only if it guarantees an employee the same or a comparable job on return from leave. A firm that provides leave, but that does not guarantee the same or a comparable job, is counted under the category "none." This classification scheme is used because the only advantage of an unpaid mandated leave is job protection. By classifying leaves without job guarantees under the category "NONE," we obtain a more accurate picture of how many firms and employees would be affected by mandated unpaid leaves.

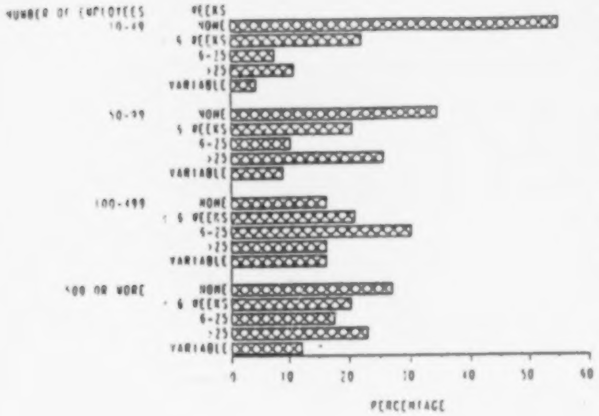
Charts 2.A to 2.C look at the incidence and the length of leaves to cover pregnancy and childbirth-related disabilities. Each of these charts presents the information for a different classification of employees: managers (Chart 2.A), clerical workers (Chart 2.B), and production workers (Chart 2.C). Included in this group of leaves are sick leaves, disability leaves, and maternity leaves that cover disabilities resulting from pregnancy and childbirth. Under the conditions of the Pregnancy Discrimination Act, all sick leave and temporary disability insurance policies that are in effect must be available to cover pregnancy and childbirth-related disabilities. Firms are free, however, to offer policies that cover disabilities from pregnancy and childbirth on more generous terms than for other disabilities. In general, leaves provided under sick leave and temporary disability insurance programs offer some degree of wage replacement.

Charts 2.A to 2.C show that ***in the smallest firms (10–49 employees) more than 50% offer no job-protected leave, regardless of an employee classification.*** 55.1% of these firms offer no job-protected leave to managers, 56.5% offer no leave to clerical workers, and 59.3% offer none to production workers. ***Over 75% of the smallest firms provide no leave or leaves that are less than 6 weeks to managers, clerical workers, and production workers. Firms with 100–499 employees offer the most generous leave policies for maternity-related disabilities; but even in these firms, 37.2% provide no leave or provide leaves of less than 6 weeks to managers, 41.9% provide no leaves or provide very short leaves to clerical workers, and 61.5% provide no or little protection to production workers.*** Production workers have considerably less protection than do other workers– –this same pattern occurs throughout the other classifications of leaves and for other benefits.

WEEKS OF MATERNITY DISABILITY LEAVE AVAILABLE

2.A.

INCLUDES SICK LEAVE, DISABILITY LEAVE, AND MATERNITY LEAVES
MANAGERS



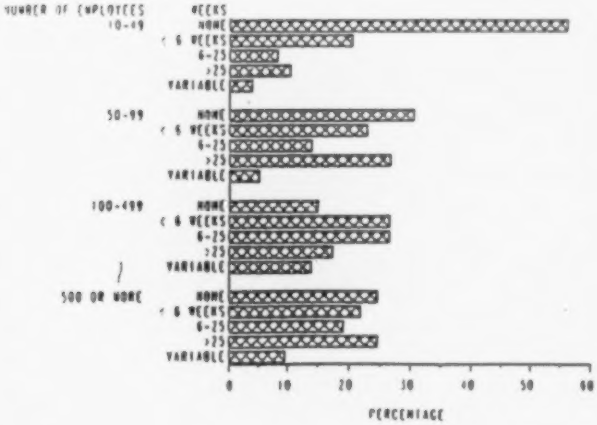
NUMBER OF EMPLOYEES	WEEKS	FREQ	CUM FREQ	PERCENT	CUM PERCENT
10-49	NONE	152	152	55.07	55.07
	< 6 WEEKS	61	213	22.10	77.17
	6-25	21	234	7.61	84.78
	>25	30	264	10.87	95.65
	VARIABLE	12	276	4.35	100.00
50-99	NONE	27	27	34.62	34.62
	< 6 WEEKS	16	43	20.51	55.13
	6-25	8	51	10.26	65.38
	>25	20	71	25.64	91.03
	VARIABLE	7	78	8.97	100.00
100-499	NONE	14	14	16.28	16.28
	< 6 WEEKS	18	32	20.93	37.21
	6-25	26	58	30.23	67.44
	>25	14	72	16.28	83.72
	VARIABLE	14	86	16.28	100.00
500 OR MORE	NONE	20	20	27.03	27.03
	< 6 WEEKS	15	35	20.27	47.30
	6-25	13	48	17.57	64.86
	>25	17	65	22.97	87.84
	VARIABLE	9	74	12.16	100.00

WITH GUARANTEE OF SAME OR COMPARABLE JOB

CHART 2.B

WEEKS OF MATERNITY DISABILITY LEAVE AVAILABLE

INCLUDES SICK LEAVE, DISABILITY LEAVE, AND MATERNITY LEAVES
CLERICAL WORKERS



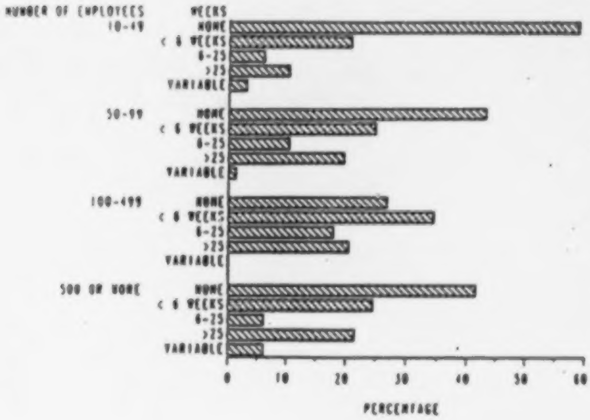
NUMBER OF EMPLOYEES	WEEKS	FREQ	CUM. FREQ	PERCENT	CUM. PERCENT
10-49	NONE	156	156	56.52	56.52
	< 6 WEEKS	57	213	20.65	77.17
	6-25	23	236	8.33	85.51
	>25	29	265	10.51	96.01
	VARIABLE	11	276	3.99	100.00
50-99	NONE	24	24	30.77	30.77
	< 6 WEEKS	18	42	23.08	53.85
	6-25	11	53	14.10	67.95
	>25	21	74	26.92	94.87
	VARIABLE	4	78	5.13	100.00
100-499	NONE	13	13	15.12	15.12
	< 6 WEEKS	23	36	26.74	41.86
	6-25	23	59	26.74	68.60
	>25	15	74	17.44	86.05
	VARIABLE	12	86	13.95	100.00
500 OR MORE	NONE	18	18	24.66	24.66
	< 6 WEEKS	16	34	21.92	46.58
	6-25	14	48	19.18	65.75
	>25	18	66	24.66	90.41
	VARIABLE	7	73	9.59	100.00

WITH GUARANTEE OF SAME OR COMPARABLE JOB

2.C

WEEKS OF MATERNITY DISABILITY LEAVE AVAILABLE

INCLUDES SICK LEAVE, DISABILITY LEAVE, AND MATERNITY LEAVES
PRODUCTION WORKERS



NUMBER OF EMPLOYEES	WEEKS	FREQ	CUM. FREQ	PERCENT	CUM. PERCENT
10-49	NONE	153	153	59.30	59.30
	< 6 WEEKS	54	207	20.93	80.23
	6-25	16	223	6.20	86.43
	>25	27	250	10.47	96.90
	VARIABLE	8	258	3.10	100.00
50-99	NONE	33	33	43.42	43.42
	< 6 WEEKS	19	52	25.00	68.42
	6-25	8	60	10.53	78.95
	>25	15	75	19.74	98.68
	VARIABLE	1	76	1.32	100.00
100-499	NONE	21	21	26.92	26.92
	< 6 WEEKS	27	48	34.62	61.54
	6-25	14	62	17.95	79.49
	>25	16	78	20.51	100.00
	VARIABLE	0	78	0.00	100.00
500 OR MORE	NONE	27	27	41.54	41.54
	< 6 WEEKS	16	43	24.62	66.15
	6-25	4	47	6.15	72.31
	>25	14	61	21.54	93.85
	VARIABLE	4	65	6.15	100.00

WITH GUARANTEE OF SAME OR COMPARABLE JOB

3. Leaves for Disabilities

Charts 3.A to 3.C present summaries of the total number of weeks of disability leave available. As in the previous case, leaves without a guarantee of the same or a comparable job are listed under the category "NONE." Included in the list are sick leaves, leaves provided under temporary disability insurance policies, vacation leaves that can be used for sickness and disabilities, and unpaid disability leaves. *Even when all four categories of leave are included, a substantial percentage of all firms provide no job-guaranteed leave whatsoever. Firms with 100–499 employees are most likely to offer some job-protected leave; these firms are consistently more likely to provide job-protected leaves than are the largest firms. For the firms with 10–99 employees, at least 30% of the firms offer no job-protected leave for any category of employee. In the smallest firms, 55.1% offer no job-protected leaves to managers. For production workers, this percentage increases to 59.3%. These results show that an unpaid mandated leave policy with job guarantee will affect a substantial percentage of firms – –a result that holds even for the largest firms. Even though these firms do often have generous temporary disability insurance programs, the firms do not universally guarantee the same or a comparable job on return to work.*

WEEKS OF JOB-GUARANTEED DISABILITY LEAVE AVAILABLE

3.A

INCLUDES SICK, DISABILITY, VACATION, AND UNPAID LEAVES
MANAGERS

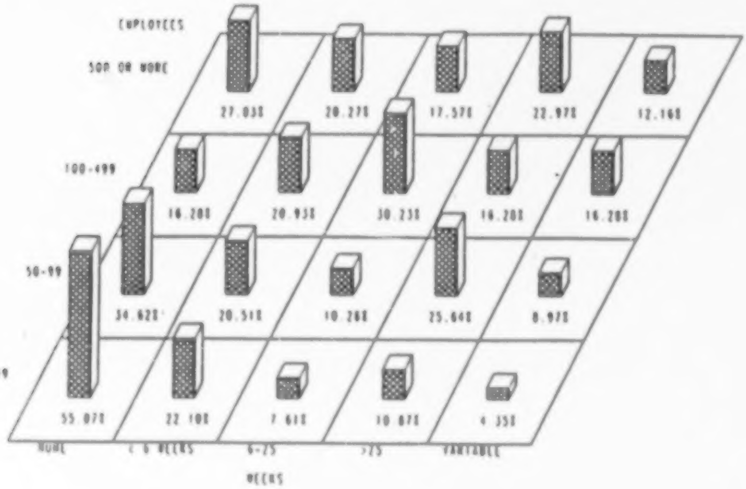
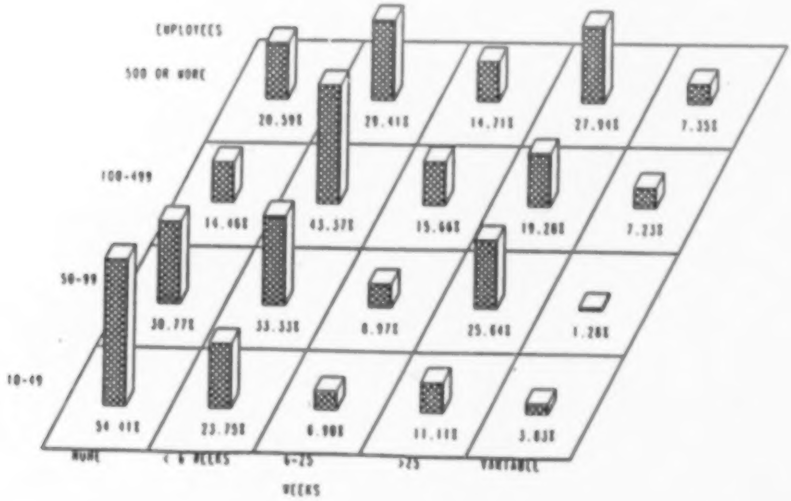


CHART 3.B

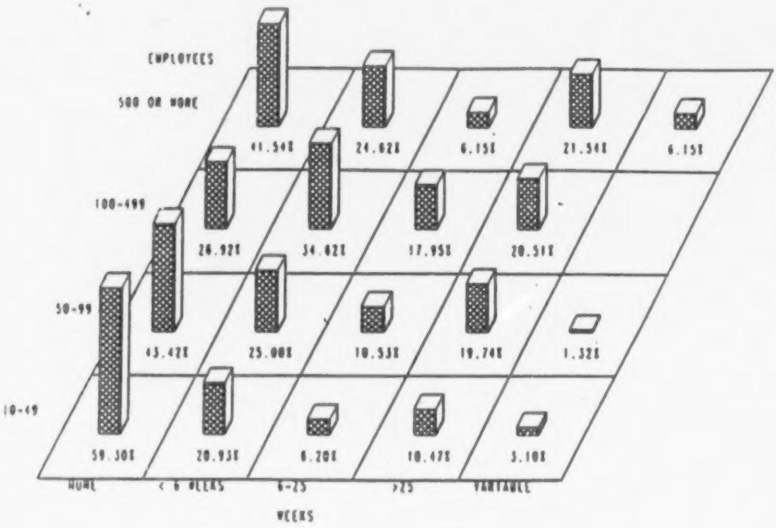
WEEKS OF JOB-GUARANTEED DISABILITY LEAVE AVAILABLE

INCLUDES SICK, DISABILITY, VACATION, AND UNPAID LEAVES
CLERICAL WORKERS



WEEKS OF JOB-GUARANTEED DISABILITY LEAVE AVAILABLE 3.c

INCLUDES SICK, DISABILITY, VACATION, AND UNPAID LEAVES
PRODUCTION WORKERS



4. Leave for Infant Care

Charts 4.A to 4.C look at the extent to which firms have responded to the needs of employees for infant care leave. Few employers provide infant care leave- -less than 10% of all firms do so. For firms with less than 100 employees, the percentage drops to 5% or less for all categories of employees. (The responses reported in Chart I.A, which include both the telephone follow-up and the mail survey, indicate a somewhat higher prevalence of infant care leave than the responses from the mail survey alone.)

Parental leave involves two separate components. Infant care leave, that component of a parental leave policy allowing parents time-off to spend with their newborn or newly adopted child, has yet to be made available for most parents in Connecticut.

WEEKS OF JOB-GUARANTEED INFANT CARE LEAVE AVAILABLE 4-A

MANAGERS

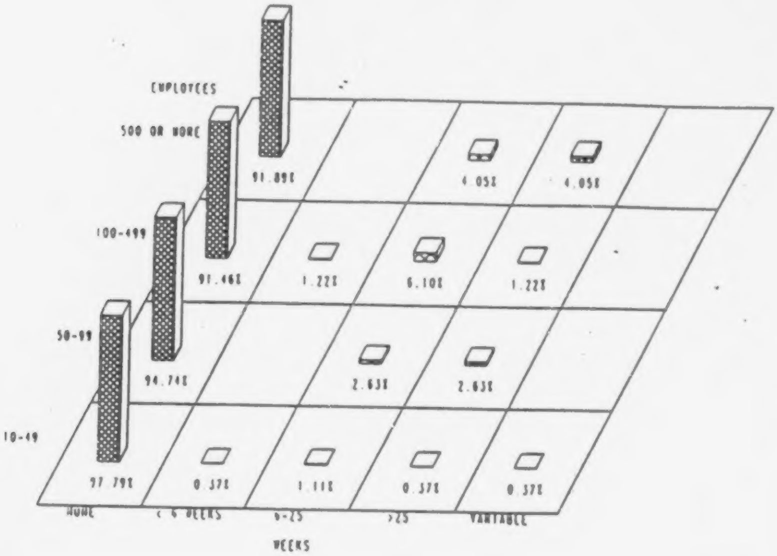


CHART 4.B

WEEKS OF JOB-GUARANTEED INFANT CARE LEAVE AVAILABLE

CLERICAL WORKERS

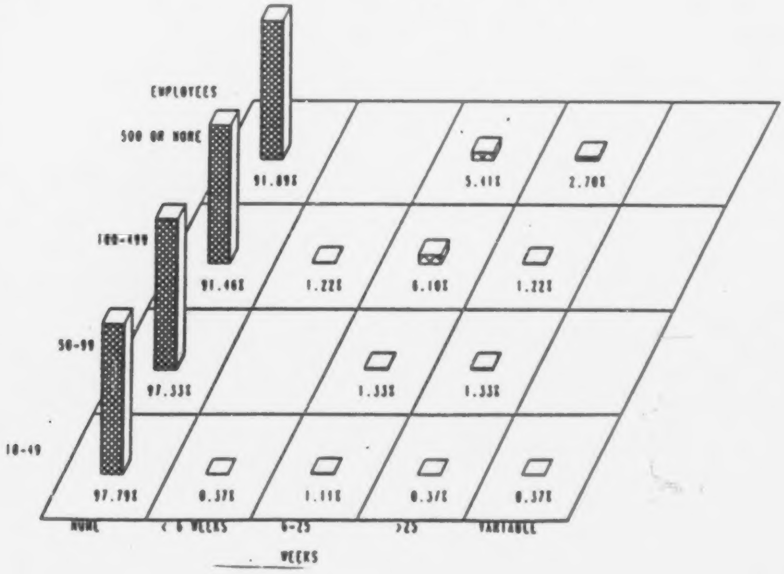
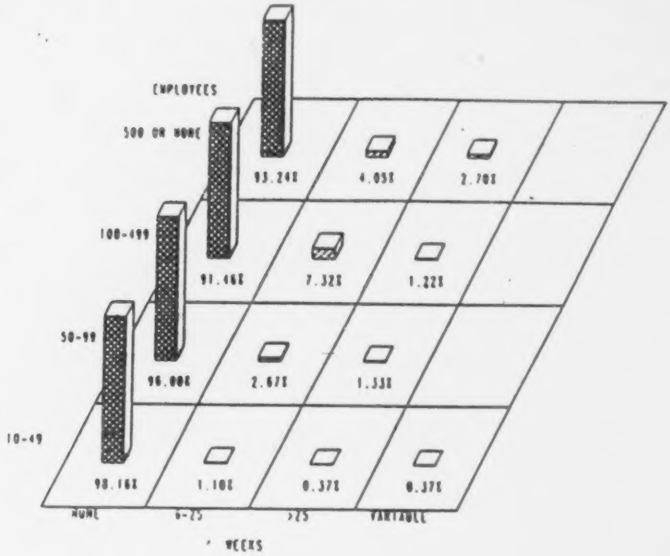


CHART 4.C

WEEKS OF JOB–GUARANTEED INFANT CARE LEAVE AVAILABLE

PRODUCTION WORKERS



5. Connecticut survey findings on leave to care for sick children and ailing parents.

Charts 6.A and 6.B indicate whether firms provide employees with leave to care for sick children and ailing parents. These charts only show the availability of leave; they provide no information on the specific type of leave policy under which the leave is granted. For example, one firm may allow an employee to use his or herown sick leave days to care for a sick child; another firm may have a separate policy that provides leave over and above the employee's own sick leave policy. In Chart 6.A firms are listed as providing leave only if the firm guarantees the employee the right to return to the same or a comparable job. *The largest firms are the least likely to permit employees to use leaves to care for sick children - - nearly one-third of the large firms never provide this type of leave. Firms with 50 - 99 employees are the most likely to provide employees with the flexibility of using leave to care for sick children - - 65.4% of firms in this category permit employees to use leave to care for sick children. The smallest firms (10 - 49 employees) and the medium-sized firms (100 - 499 employees) are equally likely to permit this use of leave - - approximately 55 - 57% in both cases.*

Chart 6.B indicates that *small to medium-sized firms have policies for use of leave to care for ailing parents that are nearly identical to their policies regarding leave for sick children.* The percentage of firms responding "yes" to whether they permit leave to care for ailing parents ranges from approximately 57% for the smallest and medium-sized firms to 64% for firms with 50 - 99 employees. The largest firms are again the least likely to provide this category of leave - - 47% permit employees to use leave to care for ailing parents. The split between the "no" and "sometimes" categories shows more variation than the "yes" category across these two needs for leave, particularly for the medium and large firms. Twenty-three percent of the medium-sized firms sometimes permit leave to be used to care for sick children, while 30% sometimes permit leave to be used to care for ailing parents. For the largest firms, 28% sometimes permit leave to care for sick children, with 36% sometimes permitting leave to care for ailing parents.

CHART 6.A

LEAVE TO CARE FOR SICK CHILDREN

WITH GUARANTEE OF SAME OR COMPARABLE JOB

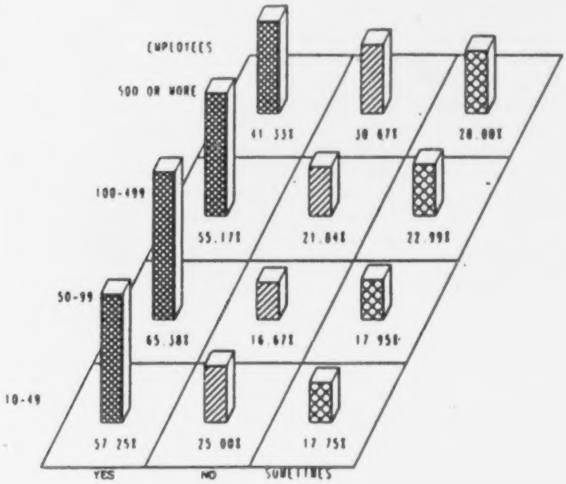
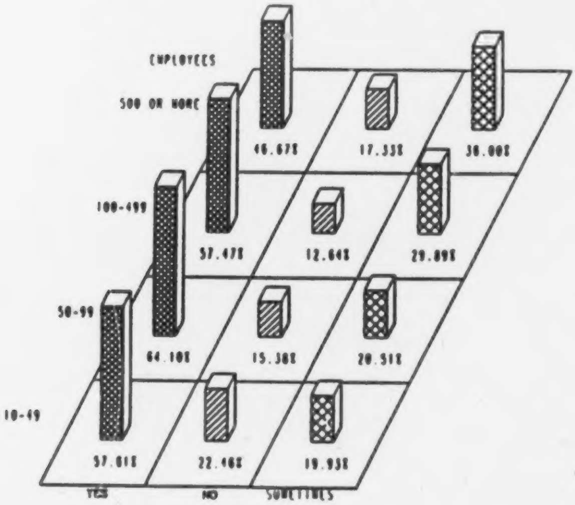


CHART 6.B

LEAVE TO CARE FOR AILING PARENTS

PERCENTAGE BLOCK CHART



6. Health benefits continuation during disability leaves.

Charts 5.A to 5.C show the percentage of firms that provide leaves with continuation of health insurance benefits. In this set of charts, a firm is listed as providing a leave with health insurance continuation if: (1) the firm provides leave, regardless of whether it guarantees the same or a comparable job, and (2) the firm continues to pay the employer's share of health insurance benefits.

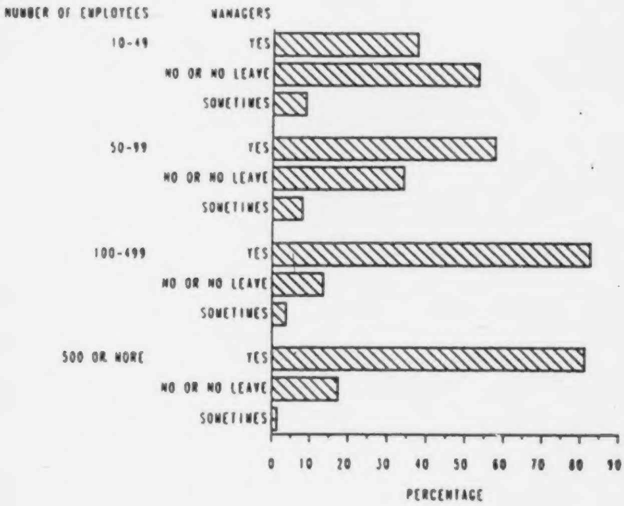
Medium and large firms are most likely to provide leaves with health insurance continuation. Approximately 83% of firms with 100–499 employees provide leaves with health insurance coverage to managers and clerical workers. Seventy-eight percent of the largest firms provide this benefit to clerical workers; 81% provide it to managers. In the firm size group 10–49, the percentage of firms providing leaves with health benefit continuation ranges from 38% for managers to 31% for production workers.

Production workers have substantially less access to leaves with health insurance benefits than do other employees. Compared with managers, production workers in the smallest firms face a .7 percentage point difference in coverage. The largest difference between production workers and other workers occurs in the largest firms--only 58.5% of these firms provide leave with health insurance continuation to production workers compared with 81.2% that provide this protection to managers.

5.A

HEALTH BENEFIT CONTINUATION DURING DISABILITY LEAVE

MANAGERS

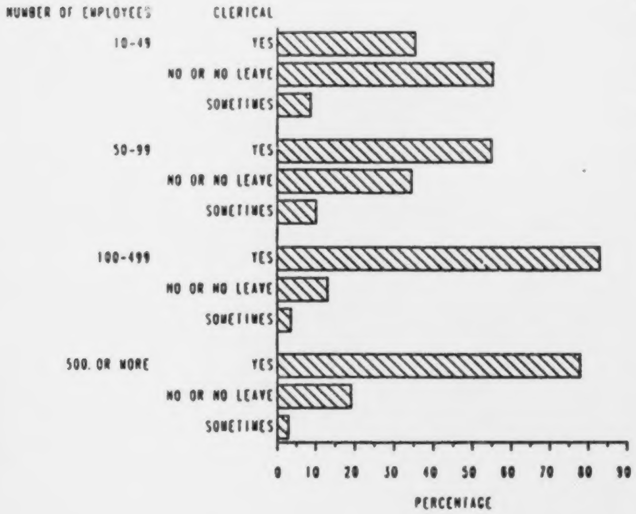


NUMBER OF EMPLOYEES	MANAGERS	FREQ	CUM. FREQ	PERCENT	CUM. PERCENT
10-49	YES	98	98	37.69	37.69
	NO OR NO LEAVE	139	237	53.46	91.15
	SOMETIMES	23	260	8.85	100.00
50-99	YES	44	44	57.89	57.89
	NO OR NO LEAVE	26	70	34.21	92.11
	SOMETIMES	6	76	7.89	100.00
100-499	YES	67	67	82.72	82.72
	NO OR NO LEAVE	11	78	13.58	96.30
	SOMETIMES	3	81	3.70	100.00
500 OR MORE	YES	56	56	81.16	81.16
	NO OR NO LEAVE	12	68	17.39	98.55
	SOMETIMES	1	69	1.45	100.00

CHART 5.2
5.B

HEALTH BENEFIT CONTINUATION DURING DISABILITY LEAVE

CLERICAL WORKERS



NUMBER OF EMPLOYEES	CLERICAL	FREQ	CUM. FREQ	PERCENT	CUM. PERCENT
10-49	YES	93	93	35.63	35.63
	NO OR NO LEAVE	145	238	55.56	91.19
	SOMETIMES	23	261	8.81	100.00
50-99	YES	43	43	55.13	55.13
	NO OR NO LEAVE	27	70	34.62	89.74
	SOMETIMES	8	78	10.26	100.00
100-499	YES	69	69	83.13	83.13
	NO OR NO LEAVE	11	80	13.25	96.39
	SOMETIMES	3	83	3.61	100.00
500 OR MORE	YES	53	53	77.94	77.94
	NO OR NO LEAVE	13	66	19.12	97.06
	SOMETIMES	2	68	2.94	100.00

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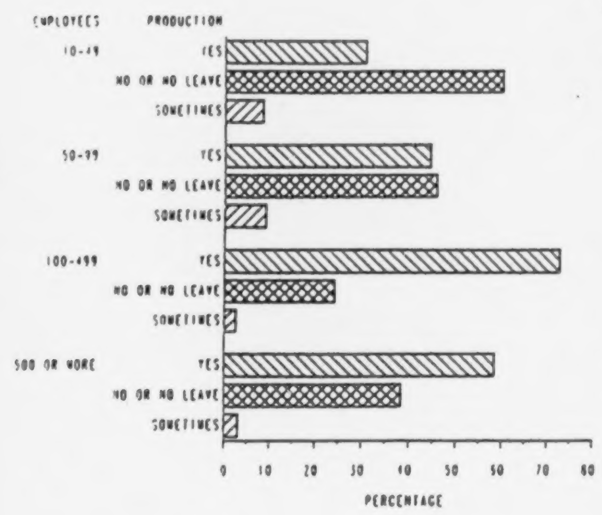
HEALTH BENEFIT CONTINUATION DURING DISABILITY LEAVE

PRODUCTION WORKERS



EMPLOYEES	PRODUCTION	FREQ	CUM. FREQ	PERCENT	CUM. PERCENT
10-49	YES	80	80	31.01	31.01
	NO OR NO LEAVE	156	236	60.47	91.47
	SOMETIMES	22	258	8.53	100.00
50-99	YES	34	34	44.74	44.74
	NO OR NO LEAVE	35	69	46.05	90.79
	SOMETIMES	7	76	9.21	100.00
100-499	YES	57	57	73.08	73.08
	NO OR NO LEAVE	19	76	24.36	97.44
	SOMETIMES	2	78	2.56	100.00
500 OR MORE	YES	38	38	58.46	58.46
	NO OR NO LEAVE	25	63	38.46	96.92
	SOMETIMES	2	65	3.08	100.00

NUMBERS OF CONNECTICUT EMPLOYEES WHO ARE AFFECTED BY THE LACK OF PARENTAL LEAVE (EITHER THROUGH SICK LEAVE OR LEAVE TO CARE FOR AN INFANT) AND BY THE LACK OF SICK LEAVE, DISABILITY LEAVE, OR MATERNITY LEAVE POLICIES

Table 3: Number of Employees Who Have NO Leave Available for Childbirth or Parenting.[15]

Firm Size	# of Employees in all of CT	% without Leave	# without Leave
10-49	345,791	48.71	168,435
50-99	186,441	29.17	54,385
100-99	436,227	19.05	83,101
500 or more	442,651	20.79	92,027
Total	1,411,110	28.20	397,948

NOTE: Firms reporting that they provide leave for childbirth or parental leave do not necessarily provide such leave to all employees (they may, for example, provide it to only one group of employees, such as managers). Therefore the 28.2% is the lower limit of employees in Connecticut without such leave, since this figure reflects the calculation of the number of firms reporting that they provide such leave to at least one employee, multiplied by the number of Connecticut employees who work in firms of that size.

EMPLOYEES WHO MUST TAKE LEAVE TO CARE FOR SERIOUSLY ILL CHILDREN MAY LOSE THEIR JOBS IN DOING SO, OR MAY ENDANGER THEIR CHILD'S HEALTH IF NOT PERMITTED TO DO SO

Besides time off to recover from pregnancy and childbirth, parental leave provides job-guaranteed time off for the care of a newborn baby to care for a seriously ill child. A number of organizations have made statements regarding the needs of seriously ill children, and the problems seriously ill children face when their parents are unable to take leave to attend to their needs. In some cases (for example, in Connecticut's family leave for state employees), businesses and states not only address leave for seriously ill children, but also for ailing parents or other dependents.

At the national hearings on parental leave, a representative of the American Academy of Pediatrics testified as follows: "For over thirty years it has been well known that children who are hospitalized get well faster and have fewer complications when their parents are able to be with them. A child's physical and emotional well-being heavily depends on parental participation during a serious illness."[16]

Not all parents are permitted leave time to attend to the needs of their seriously ill children. When leave is forthcoming, it may be denied and the worker fired if the illness is lengthy, or too time-consuming. When this happens, the effect is doubly damaging since the parent is often dependent on health insurance to provide for the ill child. "Most employed parents report the pressure of possible demotion or termination of employment during some phase of their child's illness," (Laura Sinnock, Social Worker, St. Jude's Hospital, Tennessee, testifying at the national hearings).[17] Thus, at a time when the physical and emotional needs of the child and family are most demanding and extended absences from employment most needed, employed parents must choose between providing emotional support or economic stability. "What happens is that most employed parents have to put employment and economic security as a higher priority than the emotional needs of the child with cancer."[18]

Parents also need time to take children to treatment. Dr. Stuart E. Siegel, professor of pediatrics at the University of Southern California School of Medicine, noted in testimony at the national hearings that great progress has been made in the last 30 years in treating life-threatening illnesses of children, such as cancer and congenital heart disease. But for children to receive the treatments and benefit, it is necessary that parents be available to transport the children frequently to the hospital and to monitor their condition and sometimes administer therapy at home. Studies have shown that children who are able to comply fully with the treatment program have a much higher rate of long-term survival. According to Siegel, the availability of family members "may be crucial to the chances of the child obtaining the complete benefit of the treatment and ultimately achieving cure of their disease."[19]

According to Siegel, parents of seriously ill children may have to "forego their work responsibilities frequently and at times be on an unpredictable schedule." But because many employers won't permit this, parents are "placed in the most painful position of choosing between their livelihood and that of their family versus appropriate treatment for their ill child."[20]

Siegel testified that he had encountered parents faced with a critical choice: "In our experience of caring for over 2,000 children with cancer and other serious blood diseases we have encountered numerous instances where parents had to choose between bringing their child into the hospital for much needed treatment and evaluation, versus losing their jobs. In almost all cases, employers were aware of the nature and severity of the illness that the parent was dealing with in their child, but nevertheless the parent was still faced with this terrible choice."[21]

THE IMPLICATIONS OF THE CONNECTICUT SURVEY FOR CONNECTICUT EMPLOYEES WHO MUST TAKE LEAVE FOR PREGNANCY AND CHILDBIRTH, OR TO CARE FOR SERIOUSLY ILL CHILDREN

EVIDENCE OF EMPLOYEES WHO LACK LEAVE FOR PREGNANCY AND CHILDBIRTH

Between January and September 1987, the Permanent Commission on the Status of Women received 268 complaints from Connecticut women regarding pregnancy-related problems at work. Problems included:

Being fired when the employer found out the woman was pregnant;

Not having a job to return to after childbirth (no job guarantee);

Receiving initial approval of leave, but not being given a job at the end of the leave;

Not being allowed the minimum time period of leave permitted by disability.

According to Connecticut's maternity leave statute (Gen. Stat. Ann.§§ 46a-60), all of the above are illegal. But they happen. Frederica Gray, Executive Director of the Commission, estimates that the number of complaints the Commission receives every year for pregnancy-related discrimination is but a very small percentage of the total number of incidents: "Only the people who know about this agency complain, and that number is minuscule."[12]

Even complaining about such discrimination is threatening to women employees, and many who may know of the Commission and who might complain do not do so out of fear of retaliation. Although retaliation is unlawful, it happens and can take a number of different forms: women who complain may be fired, denied promotions, denied raises, given poor evaluations, or given poor recommendations.

Connecticut is not alone in facing existing discrimination against women because of pregnancy and childbirth. Numerous women's advocacy agencies throughout the country report that they receive calls from mothers in distress, mothers who have lost their jobs because of pregnancy or a family crisis. "Very often we are contacted by women workers who are at risk of losing their jobs or have lost them because they are pregnant, gave birth to a child, or took a leave of absence to care for a sick child" (Executive Director of the Mayor of Chicago's Commission on Women's Affairs).[13] No national survey has yet been done to determine just how large the numbers are; however, in the Connecticut survey, only 3.3% of the firms reported that they were unable to meet a request for leave, when asked. Reasons for denying a leave request included that the individual was an essential employee, that the employee was not in good standing, that the employee did not need to be the primary caregiver, that the work schedule was too heavy, and that formal firm policy did not permit such leave to be granted.

It appears that even when a firm has a leave policy, a leave may be denied if granting such leave is left up to the supervisor's discretion. Claudia Shuster, Director of the Early Childhood Program, Capitol Region Education Council, testified at the hearings held in Manchester, Connecticut, that "Policies, even though some of them are in writing, are implemented in an indiscriminate fashion depending in strong measure on the empathetic level of the supervisor."[14]

The New York Times

January 18, 1987

Pregnancy Leave for Women, and Men

For women serious about both career and family life can quickly become a difficult balancing act. A new Supreme Court decision promises to make the balancing a bit easier. It allows states to guarantee job-protected leave to pregnant workers.

The Court upheld a California law that requires most private employers with five or more workers to give women unpaid pregnancy disability leave of up to four months. They would be entitled to reinstatement to the same job on their return. Is such special treatment inconsistent with Federal laws prohibiting sex discrimination?

By a 6-to-3 vote, the Court said no. Federal law does mandate that pregnant employees be treated no worse than nonpregnant employees, Justice Thurgood Marshall reasoned, but that does not prevent an employer from treating them slightly better. In fact, he said, the California law furthers the Federal goal of equal employment opportunity for women because it "allows women, as well as men, to have families without losing their jobs."

The California law, he noted, does not compel favorable treatment of pregnant workers by employers. It merely establishes minimum standards that an employer could extend to all workers.

Women are more likely to work in smaller companies, which may balk at the implications. Yet by now working mothers are so large a fact of business life that employers would do well to confront the issue. More than 70 percent of all working women are of childbearing age and, according to one estimate, more than 90 percent of them are likely to become pregnant during their working lives. Some people fear that the decision may actually generate a harmful backlash as employers simply refuse to hire women.

That is a legitimate worry. The best response, however, isn't to deny pregnancy leave to women but to permit more leaves for everyone. That is the thrust of a proposed Parental and Medical Leave Act, co-sponsored by Representatives Patricia Schroeder of Colorado and William Clay of Missouri. Their bill would grant new parents up to 18 weeks of unpaid leave to care for newly born, newly adopted or seriously ill children. It would also protect the job of any employee who needs up to 26 weeks to recover from any serious health condition.

Such a national policy, promoting health, job and family stability, would show, again, how the goals of the women's movement turn out to benefit men.

The Washington Post

THURSDAY, JUNE 4, 1987

Babies

WHEN A WOMAN who is working has a baby, what should her employer be free—or required by law—to do? Should she have a right of return to the job? Traditionally, this has been an issue settled privately. Now, in a reflection of the changed role of women, there are moves to impose a partial public solution as well. The current leading example is The Family and Medical Leave Act of 1987, approved by a House labor subcommittee last month.

The bill does not simply deal with pregnancy. The women's groups supporting it want to provide maternal benefits, but without creating sex distinctions in the law. Their way of doing both is to broaden the coverage. The bill would require employers of more than 14 people to provide up to 26 weeks of unpaid leave to any employee with a "serious health condition." That would include but not be limited to the temporarily disabling effects of childbirth. Such employers would also be required to provide up to 18 weeks of "family leave" to any parent on the advent or serious illness of a child. A worker could also take such leave if it were needed to care for a seriously ill parent. In theory, a woman who had a child would be entitled to both some weeks of leave from category A and the full 18 weeks from B. In addition to giving her back the same or an equivalent job on her return, the employer would have to keep up during her leave any health insurance payments made before.

Opponents led by the Chamber of Commerce have attacked the bill on grounds that it would inflexibly impose on all business an enormous extra cost, and weigh down small businesses especially. The opponents say the advocacy groups and sponsors in Congress, prevented by the budget deficit and political climate from creating new public benefits in recent years, have turned to legislating private benefits instead, and hiding the costs off budget.

Proponents respond that:

1. The cost is overblown. The leave would be unpaid (though the bill would require a study of paid leave). Because they'd be without pay, not that many people could afford to take all the leave, while many firms provide some leave already, so that a lot of the cost is already being borne.

2. Large and unionized firms tend to provide more such leave than small. It's easier for them; their resources and turnover both are greater. Small firms are thus where the problem and burden both are greatest. The small-business exemption in the bill is an effort to balance these considerations. About 85 percent of businesses would be excluded, but only about 20 percent of workers.

3. The larger issue is that society has come to depend on having women work. Social preferences aside, the economy requires the labor, just as families—and the businesses from which they buy—require the income. The double role puts women—and families—under enormous strain. The society needs to confront the problem more directly than it has.

Our instinct is to agree with this. We admit to some uneasiness about the bill as now expansively drawn. It is not just another labor standard. It casts a wide net in new territory; no one really knows how much it would be used or cost. To some extent it is an effort not merely to accommodate but to validate new roles within the family, and government has always been clumsy at this. But if the bill goes too far, it goes in the right direction. Women bear an unusual and not fully acknowledged burden in the present system. Children pay part of the price. Both could use some more support.

Los Angeles Times
May 11, 1988

The Family Gap

Presidential candidates and other politicians from both major parties are proclaiming their concern this year with helping the American family. But, as Rep. Patricia Schroeder (D-Colo.) points out, there is nonetheless a huge "family gap." Congress seems to feel no urgency about grappling with two questions that are of daily concern to millions of voters—getting time off to be with a newborn or sick child and finding decent day care.

The Family and Medical Leave Act is ready for consideration by the full House of Representatives. This legislation would allow parents to take as much as 10 unpaid weeks off after the birth or adoption of a child, or to care for a seriously ill child or parent, and return to the same job or an equivalent one. Employees could also take 15 weeks of unpaid leave to recuperate from a serious illness themselves. The measure would cover only employers with more than 50 workers.

The opposition complains that businesses would have to spend too much money on temporary replacements for workers on leave. It strikes us that whatever money they did have to spend would be buying long-term worker satisfaction; when more experienced workers hold onto jobs because they are happy where they work, fewer new people must be trained, and productivity remains high.

Despite the merits of the legislation, it languishes, as does the major child-care bill proposed by Sen. Christopher J. Dodd (D-Conn.) and Rep. Dale E. Kildee (D-Mich.), not to mention a more modest measure by Sen. Orrin G. Hatch (R-Utah) and Rep. Nancy L. Johnson (R-Conn). The Hatch-Johnson bill would provide tax incentives to encourage employers to establish child-care facilities, and would give states grants to subsidize day care for low-income people. It does not have the vast scope of the Dodd-Kildee bill, but it also doesn't have that bill's $2.5-billion price tag.

Those costs are indeed large, but so is the task that the broader bill sets for itself. This measure would put most of its money into subsidies to help low- and moderate-income people pay for day care. It also would finance training programs for child-care workers and provide grants to help child-care centers and home-care programs meet safety requirements and other regulations. The bill also would require states to review and strengthen licensing laws.

Child care is essential to the working poor. As a House committee found recently, 35% more two-parent families would live in poverty if the wives were not employed.

The scope of federal involvement in child care threatens to be the next battleground in the country's continuing ideological battles that swirl around the family. Congress could head off that unfortunate development by acting decisively. Instead of making promises and kissing babies, the politicians should help close the family gap by passing these bills to help American parents.

The Atlanta Journal
THE ATLANTA CONSTITUTION

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Weekend's editorial page is prepared by the editorial board of The Atlanta Constitution.

PAGE 20A, SATURDAY, MAY 7, 1988

A national policy for motherhood

Tomorrow, the nation pauses to honor its mothers. Enormous sums will be expended by grateful sons and daughters on flowers, gifts, greeting cards and journeys home. There will be breakfasts in bed and blessings by preachers. Nursing homes will buzz with unaccustomed activity, and long-distance phone lines will be busy all day.

And in the centers of government, glowing tributes will be paid to the women who changed the diapers, bandaged the knees and wiped away the tears of America. Few institutions inspire the reverence heaped annually on motherhood.

But the nation has yet to back up these ritual observances with the most fundamental protections for parents: time off from work to have and care for their babies, with protection against firing.

Bills that would require employers to provide *unpaid* family leave of up to 10 weeks, at *no cost* to taxpayers, have been stalled in committees of the House and Senate for most of the last three years. And, though one sponsored by Rep. Patricia Schroeder (D-Colo.) has finally emerged and been scheduled for a House vote sometime this spring or summer, it has turned into one of the hottest potatoes ever to be tossed around those chambers.

Southerners, especially, have been reluctant to push publicly for a measure many admit privately would be difficult to vote against. Of Georgia's staunchly pro-family House delegation, only one member, John Lewis, is co-sponsoring Schroeder's relatively modest Family and Medical Leave Act, covering 47 percent of the nation's work force. It would apply initially, as part of a compromise worked out with House Republicans, only to firms employing 50 or more.

The problem, congressional insiders say, is that many lawmakers feel pressured to classify themselves as either pro-family or pro-business, a conflict perpetrated by misrepresentations of the U.S. Chamber of Commerce. The Chamber sowed panic three years ago with its estimate that an earlier version of the bill would have cost a staggering $20 billion. It later whittled that estimate down to $2 billion. But the cost of the compromise would be closer to $188 millon, the General Accounting Office said after factoring in actual employment and demographic statistics.

The act is, to put it bluntly, the most overtly "pro-family" measure in decades, closing an unconscionable family gap with our own trading partners. Sweden provides parental leaves of up to a year, at 90 percent of salary for 38 weeks; Germany, fully paid leaves of up to 14 weeks. Even Chile provides paid leaves of up to 18 weeks.

This act would provide no salaried leaves, just job protection for those returning after 10 weeks' parental (or up to 15 weeks' medical) leave. Workers would have to be employed for a year to be covered.

But it would, at last, put into practice a notion to which most of us give only lip service: that families, and especially mothers, are valued. Workers ought to be able to have babies without risk of being fired.

St. Louis Post-Dispatch
(Editorial)
June 17, 1988

Weaker Family Leave Still Worth Passage

Sen. Christopher Dodd, Democrat of Connecticut, has revised his proposed Parental and Medical Leave Act, cutting its cost to business to $200 million from $500 million, in hopes of winning more support in the face of stubborn conservative opposition. He has done the right thing; a weak bill is better than none at all.

The reduction in coverage of those meant to be helped isn't that serious. The bill now applies to businesses with 20 or more workers instead of 15 — not bad, considering that the companion bill in the House applies only to businesses with 50 employees or more. The amount of guaranteed unpaid leave to care for newborns, newly adopted or seriously ill children is cut to 10 weeks from 13, while a similar period for personal illness falls to 18 weeks from 26. Unfortunately, a length-of-service requirement for eligibility has been added, although it is only one year.

These lesser benefits may not be adequate, but if approved by Congress they would do two important things. First, they would prove business can handle the burden, as well as possibly raising the productivity of workers, as the distraction of how to juggle family needs and a job is alleviated. Second, to the extent that some small businesses may be unreasonably burdened by having to provide guaranteed leave while continuing to pay for medical benefits — even though the leave is unpaid — the new exemptions reduce the hardship.

But the bill's revision doesn't mean smooth sailing in the Senate. Business still opposes the very notion of government-mandated leave as an invasion of its freedom to manage. As with plant-closing legislation, the business community seems determined to prevent reasonable needs of workers being met by common consent of the community. The fight must be pressed.

St. Louis Post-Dispatch
(Editorial)
June 20, 1988

As More Mothers Work

Much of the news about the changing American family has focused on the so-called DINKS — the dual-income, no-kids families. But a more far-reaching picture of family change, having major implications for social policy, is emerging from a new U.S. Census Bureau study on fertility among women. It reports a significant increase in the number of two-wage families with children and also shows that within a year after giving birth, more than half of all new mothers either return to the work force or try to.

The study turned up 13.4 million dual-income couples with children, compared to 8.3 million in 1976. These families comprise over 40 percent of all married couples in the child-bearing age bracket.

This trend means society must address the changing needs of these women and their families. Congress already is beginning to do so by seeking to expand day care for children of working mothers. One bill, by Sen. Christopher Dodd, a Connecticut Democrat, would set up a $2.5 million program to license day-care centers and to protect the safety and health of children there. Some argue this bill would discriminate against mothers who stay home with their children and favor those who don't.

Overlooked is the fact that many of these working women are in the job market because they have to be. Mothers return to the labor force much earlier than they used to simply because their families need two incomes to make ends meet. In short, they no longer can afford the luxury of staying out of the job market for long periods of time.

The sooner Congress begins addressing day care and other issues affecting the growing number of mothers who must work out of necessity, the better off these women and their families will be.

LOS ANGELES TIMES
September 14, 1988

Easing the Nightmare

Working parents often need time off when a baby is born. Some companies allow mothers and fathers to take unpaid leave for up to three or four months and return to the same or a comparable job. But millions of Americans must choose between their jobs and their children.

The Family and Medical Leave Act, sponsored by Rep. Patricia Schroeder (D-Colo.) and Sen. Christopher J. Dodd (D-Conn.), would allow a parent to take off as many as 10 weeks—as unpaid leave—after the birth or adoption of a child without losing a job. Millions of working parents, and their children, would benefit.

The national family-leave bill, expected to come up before the House early next week, would also allow parents to take time off to care for a seriously ill child or a critically ill elderly parent and return to the same or an equivalent position. Workers could also take off up to 15 weeks to recuperate from a serious illness like a heart attack. The unpaid leave would provide a little peace of mind during a difficult time.

The House bill would exempt businesses with fewer than 50 workers for the first three years. The legislation would cover 39% of the nation's employees. An estimated 1.675 million Americans would be expected to take advantage of the benefit at a cost of $188 million to the businesses, according to the Government Accounting Office. After three years, the House bill would exempt businesses with fewer than 35 employers. That change would extend the coverage to 43% of the nation's workers.

The Senate bill would exempt businesses with 20 or fewer employers, which would cover 47% of all workers at an estimated cost of $194 million. The bill, which is expected to come up on Thursday, differs from the House version in that it would not provide time off to care for elderly parents and would limit time off to recuperate from a personal illness to 13 weeks.

Business leaders oppose the proposed new protections because of the cost of continuing health insurance for their employees who take leaves of absence.

Despite business opposition at the state level, six states—Connecticut, Maine, Minnesota, Oregon, Rhode Island and Wisconsin—have approved family-leave laws.

California's workers will gain similar protections if the governor signs AB 2738 to allow mothers and fathers up to four months of unpaid leave to care for a new baby, a newly adopted child or a very sick youngster.

The measure, sponsored by Assemblywoman Gwen Moore (D-Los Angeles), would allow workers with at least one year of continuous service at companies with a minimum of 25 employees to take one leave every two years. Additional requirements, like reasonable advance notice and the minimum duration of a leave, would be worked out by the state Fair Housing and Employment Commission.

The majority of mothers now work outside the home. Most work because they have to. The birth of a baby should not threaten a livelihood. The nightmarish illness of a child or an elderly parent should not lead to the devastating loss of a job. A reasonable unpaid-leave law would protect working parents and their children.

THE WASHINGTON POST
September 20, 1988

THE FEDERAL PAGE

Parental Leave Policy: Flexible Or Arbitrary?

By Judith Havemann
Washington Post Staff Writer

When Justice Department attorney Joan Bernott asked for six months' maternity leave without pay following a difficult childbirth, she almost got fired.

Bernott's boss, civil division chief John R. Bolton disputed her claim that she was too sick to work because he thought she had not produced adequate medical evidence. He threatened to fire her June 1 if she didn't show up at the office.

Faced with the threat, Bernott produced her medical records. While Bolton gave her an official reprimand for her conduct, he backed down on firing her, according to Bernott's attorney. She plans to return to work Oct. 3.

The controversy was an extreme example of a manager taking a tough approach to a parental leave request, according to specialists in the field. Bolton said last night he was "fully satisfied with the outcome." He described his handling of the affair as reasonable and justified by the enormous workload in his division.

More commonly, short leaves are routinely granted, and on occasion the government bends over backwards to accommodate an employee in need.

The government's leave policies are so flexible that they allow managers to grant sick leave in certain circumstances, advance sick leave, approve annual leave, advance annual leave, grant leave without pay, authorize part-time work, job sharing or flexible work schedules—or to refuse to do any of them.

Sometimes the flexibility is stretched to its limit on behalf of employees. That happened for Army computer programmer Karen Sefton, who received months of accrued, advanced, and shared leave while her young daughter was dying of cancer. Sefton, a GS12, had an understanding chain of experienced bosses and a heartrending, undeniable need.

Bernott, a member of the Senior Executive Service, had a boss who had never met her. She was reluctant to have her medical records passed around the Justice Department. And her case involved childbirth, which evoked mixed reactions from coworkers, with some being more sympathetic about time off than others.

The parental leave policy debate is the latest example of the tension over the need for regulations to protect against arbitrariness and the need for deregulation to prevent the government from being smothered by rules.

It is part of the current political debate on family issues; a parental leave bill is the next item on the Senate agenda after minimum wage legislation.

The Senate bill would require the federal government to grant employees up to 18 weeks of family leave and up to 26 weeks of sick leave with medical certification in a two-year period. If enacted, it would give federal workers a clearly defined new right and federal managers a new set of constraints.

"Federal managers are extremely put upon by regulatory requirements," said Constance Horner, director of the Office of Personnel Management. "I don't want to do anything to constrain them, but at the same time I want to use my bully pulpit to say this is an important issue, and managers should bend over backwards to accommodate family needs.

ASSOCIATED PRESS

Joan Bernott almost lost job for seeking six months' leave.

"There is now available in the federal government tremendous opportunities for meshing work life and family life," she said. "Federal managers and employees need to take a look at these options systematically and make sure they get used when they need to be used."

But, she said, she has no intention of issuing "marching orders to agency management." Lower-level OPM officials, though, are quick to note that Bernott ultimately won as much maternity leave as she wanted.

"A bureaucracy is a political entity and has its own methods of discipline," Horner said. "If a good worker who pulls his or her own weight isn't treated right, that worker's peers have methods of making managers do the right thing even if they don't want to."

Andrew Feinstein, staff director of the House civil service subcommittee, said the problem with the federal government's leave policies is that "people get hurt at both ends. If you are a very good performer, you don't get leave because you can't be spared and if you're a very poor performer you don't get leave because your supervisor doesn't like you.

Years ago, the Federal Personnel Manual stated that reasonable maternity leave was generally in the range of six weeks before childbirth and eight weeks after, and many federal managers once used that as a general rule of thumb, according to Claudia Cooley, OPM associate director.

Horner's efforts to encourage managers to grant "reasonable" leave requests for dependent care—not just of children, but of elderly parents and other family needs—began in 1986 and have worked relatively smoothly for the majority of federal employees, by OPM accounts.

Of 7,000 federal arbitration cases in recent years, only 19 have involved the denial of leave to care for dependents, Horner said. "This doesn't mean there are no problems," she said, "but it suggests that people have been working them out pretty well."

THE WASHINGTON POST
September 21, 1988
Editorial Page

Mr. Bush on Family Leave

GEORGE BUSH has deftly revived the mainly Democratic legislation he opposes to require businesses above a certain size to provide unpaid parental leave. Both House and Senate committees had approved such legislation, which then stalled. In the House, even many Democrats—reluctant to offend business by voting for a "labor" bill that wasn't going anywhere—wanted the Senate to act first, which the Senate seemed unlikely to do.

But two weeks ago, Mr. Bush, as part of a shift in positions that also saw him endorse an increase in the minimum wage, said: "We also need to assure that women don't have to worry about getting their jobs back after having a child or caring for a child during a serious illness. . . . We've got to do something about that."

The purring Democrats propose to give him a chance. If not a bill, they'd be happy with a Republican vote against. Moderate Republicans in both houses, having successfully eased the terms of the bills, have joined in sponsoring them. With so many women in the work force, they no more than Mr. Bush's advisers want the party to be the naysayer on this issue.

The bills would require employers to allow parents (not just mothers, women's groups insisted) up to 10 weeks of leave every two years to care for children when born, adopted or seriously ill. The employer would be required to keep up any health insurance payments previously made and to guarantee the employee the same or a comparable job on her or his return. The House bill would also require leave to care for a sick parent, and both would require leave if the employee became ill.

The bills would cover only employees who had worked for a company for a year, and the Senate bill only companies with more than 20 employees, exempting nearly 90 percent of all businesses and more than half of all workers. The House would exempt even more. Many larger businesses already provide some family leave. Thus the cost of the legislation would be modest; not all women could even afford all the unpaid leave it would provide. The opponents mainly fear what might follow. They see it as part of a broader effort by Congress to require business to provide benefits the government cannot afford. A higher minimum wage would be one such; mandatory health insurance another; paid family leave someday a possible third.

The Republican platform thus called for steps to "encourage employers . . . to voluntarily address their employees' child care needs," and the Bush campaign is exploring tax incentives. But these would again cost money the government doesn't have. The problem of paid benefits can be left for later. Unpaid maternity leave is a modest requirement in a society as dependent as this on women's work. Small business is amply not to say excessively protected. The pending legislation may not be what Mr. Bush had in mind, but Congress should thank him and pass it anyway.

ATLANTA, GEORGIA
CONSTITUTION

OCT 3 1988

Family Bills Fall Prey to Politics

A modest but long-overdue proposal to protect the jobs of workers who stay home to take care of their newborn children or dying parents has become so saddled with expensive and extraneous baggage it can no longer be debated on its own merits.

That is the upshot of the Senate's decision to make quick work of several bills relating to families and children in preparation for its impending adjournment.

Family advocates ought to be outraged.

Suddenly last week, with less than two weeks remaining of the fall session and momentum building for a national parental leave policy, Senate leaders moved to encumber it with a controversial, multibillion-dollar proposal to overhaul and expand the national day-care infrastructure, and an anti-obscenity amendment of dubious constitutionality and undoubted extremism.

If that costly and combustible mix is put to a vote in either chamber, it will force lawmakers either to spend billions and invite court challenges irresponsibly, on the eve of the elections, or vote against parental leave. They can't have it both ways.

That is a pity. The United States alone among the industrialized Western nations has no parental leave policy, and the plan to require employers to provide unpaid leaves of up to 10 weeks for new parents and 15 weeks for medical reasons is modest in comparison with the *paid* leaves of up to a year provided by some of our allies.

The Family and Medical Leave Act, as it is known in the House, deserves passage on its merits. It requires no federal spending, yet would enhance family security while reducing employee turnover and improving morale.

In Georgia, it would cover 39 percent of the work force, but only 5 percent of the employers; those employing fewer than 50 would be exempt. Also exempt would be part-time employees, those on the job less than a year and, if the employer can show a business necessity, those in the top 10 percent by salary.

Arguments could also be made for the expenditure of billions to upgrade and establish minimum standards for day care and for crackdowns on child pornography, but not as albatrosses around the necks of U.S. workers; not in this form, at this time.

Sad to say, it is children and families who will pay the price of this election-year grandstanding.

As usual.

KANSAS CITY, MO.
STAR OCT 6 1988
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Families need right of parental leave

BUSINESS-WOMEN

Senate Republicans aren't scoring any election-year points with their maneuvering to keep down the Family and Medical Leave Act. This is the year to pass this legislation—an election year when legislators are facing the electorate. It has been around long enough.

For Republicans to act as if this has come up in the last minute as a Democratic plot to embarrass George Bush is political talk. In fact, there are Republican supporters and sponsors of this bill, along with the Democrats who are trying to get it through the Congress.

Republicans fighting against it are going to get their same election-year campaign contributions from business interests opposed to the measure. But they are putting their presidential candidate into a box because Bush needs the support of women voters. Or else, why would he be working so hard to attract the working woman's vote with his endorsement of a tax credit plan for child care, and by remarks which indicated he would support at least a limited parental leave policy?

But Bush hasn't been specific on that score. The Family and Medi[illegible]l Leave Act, or what's left of it, [illegible] Employers would have to give [illegible]nts time off following birth of a child or to take care of a sick child, with job protection guaranteed. Because of changes supporters made to aid its passage, the Senate bill would affect only 5 percent of companies.

The provisions aren't much, requiring 10 weeks unpaid leave, but for a lot of working parents it would be one of the most important job benefits they could have. Only the United States of the industralized countries of the world forces its working parents to choose between job and children. It is time to move forward in response to today's workers' needs, and to those of the children.

The Salt Lake (UT) Tribune
October 9, 1988

Families Lose Again

In a matter of weeks, the U.S. Senate handed families two defeats. It's not an admirable record.

Last month Senate Republicans, cheered on by the U.S. Chamber of Commerce, used the filibuster to fend off an increase in the minimum wage. Their "success" will relegate millions of Americans to another year of poverty.

Last week the same senators passed up another opportunity to strengthen working-class families. They rejected legislation that would have helped parents obtain quality child care and required employers with more than 50 employees to offer at least 10 weeks of unpaid leave for workers with new babies, sick children or serious illnesses of their own.

Senators chose to concentrate on the "more pressing" matters of drugs and taxes. As Republican leader Bob Dole of Kansas put it, "This isn't an urgent measure that needs to be passed in the waning days of the 100th Congress."

Parents who leave young children home alone or with less-than-reliable sitters while they work would undoubtedly disagree with Sen. Dole. So would the many mothers who put their jobs on the line to spend any more than two weeks home with their newborn infants. In fact, surveys have shown that most Americans favor federal support of both child care and parental leave.

The complexity and cost of the $2.5 billion child-care bill may partially account for its cool reception among senators. Some had reservations about imposing federal health, safety and quality standards on child care services. Many were reluctant to tell employers what benefits to provide. If lawmakers had cared enough about the issues, however, they would have seriously considered a compromise. As it was, they avoided full debate.

It's especially ironic that the Republican Party, which claims to be pro-family, would give short shrift to the family-protection legislation. The voting public shouldn't stand for such insensitivity and hypocrisy.

Los Angeles Times
(Editorial)
Oct. 11, 1988

Ducking Family Policy

Too many members of Congress are completely out of touch with a question many Americans are asking these days: Who will take care of the children? Congress has answered by talking for months about family values, but, in the end, valued families so much less than parliamentary procedure that it abandoned major legislation strengthening the nation's child-care system and a parental-leave bill. Whoever called this the "year of the family" had the wrong calendar.

Not all members of Congress are out of touch. Sen. Christopher J. Dodd (D-Conn.) was joined by many in Congress in support of a $2.5-billion measure that would have created subsidies for day care for children from low- and middle-income families, increased the number of day-care programs and set standards for their operation. Sen. Edward M. Kennedy (D-Mass.) also had widespread support for a measure that would have given parents up to 10 weeks' leave to care for newborn or ill children.

Some Republicans started a filibuster because they thought, correctly, that the Democrats were playing politics with the issues. But the child-care and parental-leave bills were not issues the Democrats dreamed up at the last minute to try to force Republican lawmakers to act on family issues. Both measures have gone through legislative hearings, careful negotiations and thorough debate. Still the Senate was unable to end the filibuster Friday; California's senators divided, with Democrat Alan Cranston voting to end debate, Republican Pete Wilson voting to let debate continue.

Senate Minority Leader Bob Dole (R-Kan.) said there is nothing urgent about a parental-leave bill. He's wrong. Parents daily face the choice of staying home with their newborn child and daily they must decide between losing a job and caring for a seriously ill child.

But Dole is right that parental leave and child care will be on the agenda next year. Child care is "the hottest single fringe benefit in the nation's largest corporations," according to a news story Saturday on the front page of The Times, right next to the report about Congress killing the bills. Members of the Business Council meeting in Hot Springs, Va., said they had to focus on child-care benefits to attract top young talent. Far-sighted business executives have figured it out; maybe next year Congress will, too, so that all workers and their children can benefit, not just those who work for enlightened companies.

Dole and his colleagues may be able to wait. America's children and their parents cannot. But they have no choice because Congress is out of touch.

THURSDAY, OCTOBER 13, 1988

The Washington Post

AN INDEPENDENT NEWSPAPER

Another Bipartisan Cop-out

THE POSTURING these last weeks in the Senate on the issues of parental leave and child care diminished both the Senate and the serious legislative proposals it cheapened by only pretending to address.

Mainly for lack of consensus, the majority Democrats failed to act on either proposal earlier in the year, when there might have been a chance of passage. By bringing both up only in the final weeks the Democrats reinforced the Republican charge that they were mainly in search of a campaign issue. The impression was compounded when they merged the two bills into one. Yes, both had to do with child care, the one to require large employers to give employees unpaid leave to care for sick or newborn children, the other to increase federal day care subsidies. But combining them in a kind of children's hour on the Senate floor was a dismissive act. Why not just as well combine the INF treaty and contra aid, since both have to do with defense? Because those are too important, is of course the answer.

The Republicans played games of their own. Sen. Strom Thurmond offered a child pornography amendment to the parental leave bill; why not, if the subject is children and the purpose is to twist liberals' tails? The amendment would have raised the penalty for use of a minor in pornography and created new anti-obscenity law as well. The latter would almost certainly have been unconstitutional; a statesmanlike Senate nonetheless adopted the amendment 97 to 0. What better proof of the senators' seriousness of purpose?

Vice President Bush, the Republican presidential candidate, had earlier sought to defuse the child care and parental leave issues a different way. He proposed an elaborate children's tax credit as an alternative to the child care bill, then intimated he would also support some form of parental leave (just as he said he would support a never-specified increase in the minimum wage). It was Mr. Bush's remark that challenged the Democrats to bring the parental leave bill to the floor; they had been ready to leave it for dead.

The Republicans and vice president turned out to have no alternative to parental leave, which business groups oppose; they filibustered instead, and the Democrats, lacking the 60 votes to cut them off, finally backed down. So there will be no bills this year. In the case of the child care bill we think that is just as well; it needs more work, and that's not where we would spend the next dollar. But the pattern is clear. As with so much else—the deficit, saving the savings and loans, clean air, the minimum wage—so also with these children's issues: this administration and Congress are putting the hard ones off. The next president and Congress will have the burden.

CHRISTIAN SCIENCE MONITOR
October 14, 1988

Whither 'kinder, gentler'?

THE loss of steam behind the day-care, family-leave legislation is a lesson in the workings of the US Senate.

It also affords an opportunity to consider just what sort of "kinder, gentler nation" – to quote George Bush's acceptance speech in New Orleans – the United States would likely be under a Bush administration.

The way the family issues agenda burst onto the scene this year surprised many. But despite pervasive skepticism about the efficacy of government programs, there is a perception that the work/family equation has changed enough that working parents need some sort of help. Parental leave and increased federal aid for day care looked like ideas whose time had come.

Indeed, right after the Democratic convention, Vice-President Bush, who was trailing Michael Dukakis in the polls, especially among women, unveiled his "children's tax credit," an alternative to the child-care legislation pending in Congress. Soon after, he hinted at support for parental leave, too.

This gave further impetus to both the parental-leave and the child-care bills, which were already gathering steam on their own. But it is instructive to see how the two, with the same natural constituency – working parents – drew such different responses.

The child-care bill enjoyed broad bipartisan Senate support, even though it would cost the Treasury $2.5 billion. But the family-leave bill, which would have required employers of 50 or more people to grant 10 weeks' unpaid leave for mothers and fathers of newborn, newly adopted, or seriously ill children, drew immediate and sustained fire from the business community.

The only direct costs of parental leave would be those of continuing the employee's health insurance and other such benefits during the leave. The indirect costs are much tougher to measure, but they would arguably be offset by lower turnover and higher morale and hence productivity.

Still, the US Chamber of Commerce railed against parental leave as a first step along a "slippery slope" toward turning American workplaces into Swedish ones, with so many fringes that no one gets any work done.

Proponents of the bill continued to insist that it was just a minimum labor standard, but for tactical reasons, the parental-leave bill was bundled into a package with the more popular child-care bill, and prospects looked reasonably bright for passage.

But then: Senate leadership could rally only 50 votes last week to limit debate on the package; under Senate rules, 60 votes were needed. One explanation is that Senate Republicans had promised business lobbyists they would keep the two bills from a floor vote – never realizing they would get that far and the chits would be called in. With no limit to floor debate, there was no chance of a vote, and so the package is dead for now.

This all makes one wonder where Mr. Bush, who is president of the Senate, was on this one if he really supports this "family agenda." If the GOP was unhappy with the form the legislation was taking, couldn't he have offered amendments? The child-care bill had already been modified to include some of the tax credit aspects of his own proposal. Wasn't that worth his going to bat for, making a few phone calls?

In any case, the family agenda is unlikely to go away between the adjournment of the 100th Congress and the opening of the 101st.

Philadelphia Inquirer
(Editorial)

October 18, 1988

Congress balks on child care

It was nearly certain that President Reagan would veto any bill this year to help children being raised by working parents. But when Congress recently buried bills for increased child-care aid and unpaid parental leaves, that showed legislators' own disregard for the fact that the average American family no longer has a parent who stays home. When it became clear this month that neither initiative would be passed by either house of Congress, these working families learned how little all the recent child-care rhetoric was worth.

Of the twin failures, child-care assistance was less of a surprise. Both the main Democratic plan and a counter-offer by Vice President Bush would cost more than $2 billion in the first year, and neither side had the courage to say what tax increase or spending cuts would pay for its plan. In addition, the coalition of organizations pushing child care came apart over how to allow federal help to facilities sponsored by religious institutions without crossing the constitutional line between church and state. Despite this issue and disagreement over setting national child-care standards, Congress should be able to make a new federal commitment next year. The fact that both presidential candidates share that goal builds hope.

By contrast, there was no valid reason this year for not guaranteeing unpaid leaves for working parents who need to care for a newborn, newly adopted or ailing child or for parents who are ill themselves. This was truly a bare-bones measure. The bill would have cost only about $200 million a year: the price of health insurance that employers would be required to provide during leaves of up to 10 weeks for a parent to stay with the child, or slightly longer for a parent's own illness.

Yet even in the Senate, where six-year terms supposedly allow for a little statesmanship, 60 members couldn't be found to break a Republican filibuster. That fact reflected many months of hard lobbying and vote-counting by business groups afflicted with a paranoia that unpaid leave would some day lead to paid leave. The result: The United States remains, along with South Africa, the only Western, industrialized country in which a mother can be fired from her job for not returning to work shortly after having a baby.

Business' potent lobbying power will be put to work again next year, of course, and there is another reason to worry that parental leave may fare no better next time around. Although Democrat Michael S. Dukakis has supported a national guarantee for parental leave (with small businesses excepted), Mr. Bush has ducked this issue. Yes, the Republican seemed on the brink of speaking for himself this summer. He talked about the need "to assure that women don't have to worry about getting their jobs back after having a child or caring for a child during a serious illness." But the vice president didn't follow up that rhetoric with specifics.

Unfortunately, the situation argues against great expectations for what Washington will do next year to help working parents take care of children in sickness and in health. Progress may well depend on a half-committed President Bush and a Congress that's 95 percent male, with both inclined to borrow for child care — and to say no to unpaid leave just because the U.S. Chamber of Commerce says no.

The subcommittee will stand adjourned subject to call of the Chair.

[Whereupon, at 1:20 p.m., the subcommittee was adjourned, subject to call.]

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